

5954--B

2009-2010 Regular Sessions

I N S E N A T E

June 19, 2009

Introduced by Sen. STAVISKY -- read twice and ordered printed, and when printed to be committed to the Committee on Rules -- recommitted to the Committee on Education in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged and said bill committed to the Committee on Higher Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to special education services and programs for preschool children with handicapping conditions, and in relation to waivers for certain special education schools and early intervention agencies; and to repeal subdivision 6 of section 4410 of such law relating thereto

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivision 6 of section 4410 of the education law is
2 REPEALED and a new subdivision 6 is added to read as follows:
3 6. PROFESSIONAL PRACTICE ISSUES. A. NOTWITHSTANDING ANY PROVISIONS OF
4 LAW TO THE CONTRARY, APPROVED PROGRAMS OPERATED BY PRIVATE PROVIDERS
5 SHALL BE AUTHORIZED TO EMPLOY LICENSED PROFESSIONALS OR CONTRACT WITH
6 LICENSED PROFESSIONALS OR ENTITIES LEGALLY AUTHORIZED TO PROVIDE PROFES-
7 SIONAL SERVICES IN ACCORDANCE WITH SECTION SIXTY-FIVE HUNDRED THREE-A OF
8 THIS CHAPTER.
9 B. AN APPROVED PROGRAM MAY BE FORMED, WITH THE CONSENT OF THE COMMIS-
10 SIONER, AS AN EDUCATION CORPORATION, BUSINESS CORPORATION OR AS A
11 NOT-FOR-PROFIT CORPORATION. IN ADDITION, AN APPROVED PROGRAM OR GROUP
12 OF APPROPRIATELY LICENSED OR CERTIFIED PROFESSIONALS MAY BE FORMED AS A
13 PROFESSIONAL SERVICE LIMITED LIABILITY COMPANY OR AS A FOREIGN PROFES-
14 SIONAL SERVICE LIMITED LIABILITY COMPANY IN ACCORDANCE WITH THE APPLICA-
15 BLE PROVISIONS OF ARTICLE TWELVE OR THIRTEEN OF THE LIMITED LIABILITY
16 COMPANY LAW OR AS A REGISTERED LIMITED LIABILITY PARTNERSHIP IN ACCORD-

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets [] is old law to be omitted.

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ANCE WITH SECTION 121-1500 OF THE PARTNERSHIP LAW OR AS A NEW YORK REGISTERED FOREIGN LIMITED LIABILITY PARTNERSHIP IN ACCORDANCE WITH SECTION 121-1502 OF THE PARTNERSHIP LAW. AN APPROVED PROGRAM FORMED AS SUCH A PROFESSIONAL SERVICE LIMITED LIABILITY COMPANY OR REGISTERED LIMITED LIABILITY PARTNERSHIP MAY BE AUTHORIZED TO PROVIDE SPECIAL EDUCATION ITINERANT SERVICES OR OTHER EDUCATIONAL SERVICES NOT INVOLVING PRACTICE OF A PROFESSION UNDER TITLE EIGHT OF THIS CHAPTER. AN APPROVED PROGRAM OR GROUP OF PROFESSIONALS FORMED AS SUCH A PROFESSIONAL SERVICE LIMITED LIABILITY COMPANY OR REGISTERED LIMITED LIABILITY PARTNERSHIP MAY CONTRACT WITH INDIVIDUALS LICENSED OR OTHERWISE AUTHORIZED TO PRACTICE, OR WITH A PROFESSIONAL SERVICE CORPORATION, PARTNERSHIP OR OTHER ENTITY LEGALLY AUTHORIZED TO PRACTICE ANY PROFESSION UNDER TITLE EIGHT OF THIS CHAPTER IN WHICH THE ENTITY WOULD NOT BE AUTHORIZED TO PROVIDE PROFESSIONAL SERVICES UNDER THE APPLICABLE PROVISIONS OF SECTION TWELVE HUNDRED THREE OR SUBDIVISION (A) OF SECTION THIRTEEN HUNDRED ONE OF THE LIMITED LIABILITY COMPANY LAW OR SECTIONS 121-1500 OR 121-1502 OF THE PARTNERSHIP LAW, SOLELY FOR THE PURPOSES OF CONDUCTING A MULTI-DISCIPLINARY EVALUATION OF A PRESCHOOL CHILD SUSPECTED OF HAVING A DISABILITY OR A PRESCHOOL CHILD WITH A DISABILITY OR PROVIDING RELATED SERVICES SPECIFIED IN THE INDIVIDUALIZED EDUCATION PROGRAM OF A PRESCHOOL CHILD.

C. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE EXEMPTION IN SUBDIVISION TWO OF SECTION EIGHTY-TWO HUNDRED SEVEN OF THIS CHAPTER SHALL APPLY TO PERSONS EMPLOYED BY A CENTER-BASED PROGRAM APPROVED PURSUANT TO SUBDIVISION NINE OF THIS SECTION TO PERFORM THE DUTIES OF A SPEECH-LANGUAGE PATHOLOGIST, AUDIOLOGIST, TEACHER OF THE SPEECH AND HEARING IMPAIRED OR TEACHER OF THE DEAF TO STUDENTS ENROLLED IN SUCH APPROVED CENTER-BASED PROGRAM IN THE COURSE OF THEIR EMPLOYMENT.

D. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE EXEMPTION IN SUBDIVISION ONE OF SECTION SEVENTY-SIX HUNDRED FIVE OF THIS CHAPTER SHALL APPLY TO PERSONS EMPLOYED BY A CENTER-BASED PROGRAM APPROVED PURSUANT TO SUBDIVISION NINE OF THIS SECTION AS A SCHOOL PSYCHOLOGIST TO PROVIDE ACTIVITIES, SERVICES AND USE OF THE TITLE PSYCHOLOGIST TO STUDENTS ENROLLED IN SUCH APPROVED CENTER-BASED PROGRAM IN THE COURSE OF THEIR EMPLOYMENT.

S 2. Paragraphs b and d of subdivision 9 of section 4410 of the education law, as amended by chapter 705 of the laws of 1992, are amended to read as follows:

b. As part of an application submitted pursuant to paragraph a of this subdivision, a provider of special services or programs shall submit a description of its multi-disciplinary evaluation component, if any, which shall be subject to the approval of the commissioner in accordance with regulations adopted for such purpose after consultation with the appropriate advisory committee. Such components or program may rely in part on formal written agreements or affiliations with appropriately certified or licensed professionals, or agencies employing such professionals, provided that such professionals or agencies perform their responsibilities in conformance with regulations of the commissioner and that providers fully disclose any such arrangements on all applications for program approval, AND PROVIDED FURTHER THAT THE PROVIDER CERTIFIES THAT IT SHALL APPLY FOR AND OBTAIN A WAIVER PURSUANT TO SECTION SIXTY-FIVE HUNDRED THREE-A OF THIS CHAPTER PRIOR TO PROVIDING EVALUATION SERVICES PURSUANT TO SUCH WRITTEN AGREEMENTS OR AFFILIATIONS. Nothing herein shall require a provider of special services or programs to have a multidisciplinary evaluation program.

d. Providers may make application to conduct a program that relies on formal written agreements or affiliations with other approved programs

1 or appropriately certified or licensed professionals, provided that such
2 arrangements are fully disclosed on all applications to the commissioner
3 for program approval, AND PROVIDED FURTHER THAT THE PROVIDER CERTIFIES
4 IT SHALL APPLY FOR AND OBTAIN A WAIVER PURSUANT TO SECTION SIXTY-FIVE
5 HUNDRED THREE-A OF THIS CHAPTER PRIOR TO PROVIDING RELATED SERVICES
6 PURSUANT TO ANY SUCH WRITTEN AGREEMENTS OR AFFILIATIONS INVOLVING
7 LICENSED PROFESSIONALS.

8 S 3. Paragraph (a) of subdivision 9-a of section 4410 of the education
9 law, as added by chapter 82 of the laws of 1995, is amended to read as
10 follows:

11 (a) A school district or a group of appropriately licensed and/or
12 certified professionals associated with a public or private agency may
13 apply to the commissioner for approval as an evaluator on a form
14 prescribed by the commissioner. The commissioner shall approve evalu-
15 ators pursuant to this subdivision consistent with the approval process
16 for the multi-disciplinary evaluation component of programs approved
17 pursuant to subdivision nine of this section consistent with regulations
18 adopted pursuant to such subdivision.

19 Such application shall include, but not be limited to, a description
20 of the multi-disciplinary evaluation services proposed to be provided
21 and a demonstration that all agency employees and staff who provide such
22 evaluation services shall have appropriate licensure and/or certifi-
23 cation and that the individual who shall have direct supervision
24 responsibilities over such staff shall have an appropriate level of
25 experience in providing evaluation or services to preschool or kinder-
26 garten-aged children with [handicapping conditions] DISABILITIES. TO BE
27 ELIGIBLE FOR APPROVAL AS AN EVALUATOR ON AND AFTER JULY FIRST, TWO THOU-
28 SAND TEN, A GROUP OF APPROPRIATELY LICENSED OR CERTIFIED PROFESSIONALS
29 SHALL BE FORMED AS A PROFESSIONAL SERVICE LIMITED LIABILITY COMPANY,
30 FOREIGN PROFESSIONAL SERVICE LIMITED LIABILITY COMPANY, REGISTERED
31 LIMITED LIABILITY PARTNERSHIP OR NEW YORK REGISTERED FOREIGN LIMITED
32 LIABILITY PARTNERSHIP. THE APPROVAL OF ANY GROUPS OF LICENSED OR CERTI-
33 FIED PROFESSIONALS THAT ARE IN EXISTENCE ON JULY FIRST, TWO THOUSAND TEN
34 AND WOULD NOT BE ELIGIBLE FOR APPROVAL THEREAFTER SHALL TERMINATE ON
35 JULY FIRST, TWO THOUSAND ELEVEN.

36 S 4. The education law is amended by adding a new section 6503-a to
37 read as follows:

38 S 6503-A. WAIVER FOR CERTAIN SPECIAL EDUCATION SCHOOLS AND EARLY
39 INTERVENTION AGENCIES. 1. DEFINITIONS. AS USED IN THIS SECTION:

40 A. "SPECIAL EDUCATION SCHOOL" MEANS AN APPROVED PROGRAM AS DEFINED IN
41 PARAGRAPH B OF SUBDIVISION ONE OF SECTION FORTY-FOUR HUNDRED TEN OF THIS
42 CHAPTER; AN APPROVED PRIVATE NONRESIDENTIAL OR RESIDENTIAL SCHOOL FOR
43 THE EDUCATION OF STUDENTS WITH DISABILITIES THAT IS LOCATED WITHIN THE
44 STATE; A CHILD CARE INSTITUTION AS DEFINED IN SECTION FOUR THOUSAND ONE
45 OF THIS CHAPTER THAT OPERATES A PRIVATE SCHOOL FOR THE EDUCATION OF
46 STUDENTS WITH DISABILITIES OR AN INSTITUTION FOR THE DEAF OR BLIND OPER-
47 ATING PURSUANT TO ARTICLE EIGHTY-FIVE OF THIS CHAPTER THAT EITHER: (1)
48 CONDUCTS A MULTI-DISCIPLINARY EVALUATION FOR PURPOSES OF ARTICLES
49 EIGHTY-ONE OR EIGHTY-NINE OF THIS CHAPTER THAT INVOLVES THE PRACTICE OF
50 ONE OR MORE PROFESSIONS FOR WHICH A LICENSE IS REQUIRED PURSUANT TO THIS
51 TITLE AND NO EXCEPTION FROM CORPORATE PRACTICE RESTRICTIONS APPLIES, OR
52 (2) PROVIDES RELATED SERVICES TO STUDENTS ENROLLED IN THE SCHOOL OR
53 APPROVED PROGRAM THAT INVOLVES THE PRACTICE OF ONE OR MORE PROFESSIONS
54 FOR WHICH A LICENSE IS REQUIRED PURSUANT TO THIS TITLE AND NO EXCEPTION
55 FROM PRACTICE RESTRICTIONS APPLIES. SUCH TERM SHALL NOT INCLUDE A SCHOOL
56 DISTRICT, BOARD OF COOPERATIVE EDUCATIONAL SERVICES, MUNICIPALITY, STATE

1 AGENCY OR OTHER PUBLIC ENTITY. NOTHING IN THIS SECTION SHALL BE
2 CONSTRUED TO REQUIRE A CHILD CARE INSTITUTION THAT CONDUCTS MULTI-DISCI-
3 PLINARY EVALUATIONS OR PROVIDES RELATED SERVICES THROUGH AN APPROVED
4 PRIVATE NONRESIDENTIAL SCHOOL OPERATED BY SUCH CHILD CARE INSTITUTION TO
5 OBTAIN A WAIVER, PROVIDED THAT SUCH SCHOOL OBTAINS A WAIVER PURSUANT TO
6 THIS SECTION.

7 B. "EARLY INTERVENTION AGENCY" FOR PURPOSES OF THIS SECTION MEANS AN
8 AGENCY WHICH IS APPROVED OR IS SEEKING APPROVAL IN ACCORDANCE WITH TITLE
9 TWO-A OF ARTICLE TWENTY-FIVE OF THE PUBLIC HEALTH LAW TO DELIVER EARLY
10 INTERVENTION PROGRAM MULTI-DISCIPLINARY EVALUATIONS, SERVICE COORDI-
11 NATION SERVICES AND EARLY INTERVENTION PROGRAM SERVICES, AND IS LAWFULLY
12 OPERATED BY A NOT-FOR-PROFIT CORPORATION OR PROFESSIONAL SERVICES ORGAN-
13 IZATION ESTABLISHED PURSUANT TO ARTICLE FIFTEEN OF THE BUSINESS CORPO-
14 RATION LAW, ARTICLE TWELVE OF THE LIMITED LIABILITY LAW AND ARTICLE
15 EIGHT-B OF THE PARTNERSHIP LAW.

16 C. "EARLY INTERVENTION PROGRAM SERVICES" MEANS EARLY INTERVENTION
17 SERVICES AS DEFINED IN SUBDIVISION SEVEN OF SECTION TWENTY-FIVE HUNDRED
18 FORTY-ONE OF THE PUBLIC HEALTH LAW THAT ARE PROVIDED UNDER THE EARLY
19 INTERVENTION PROGRAM AND AUTHORIZED IN AN ELIGIBLE CHILD'S INDIVIDUAL-
20 IZED FAMILY SERVICES PLAN.

21 D. "MULTI-DISCIPLINARY EVALUATION" FOR PURPOSES OF A SPECIAL EDUCATION
22 SCHOOL MEANS A MULTI-DISCIPLINARY EVALUATION OF A PRESCHOOL CHILD
23 SUSPECTED OF HAVING A DISABILITY OR A PRESCHOOL CHILD WITH A DISABILITY
24 THAT IS CONDUCTED PURSUANT TO SECTION FORTY-FOUR HUNDRED TEN OF THIS
25 CHAPTER OR AN EVALUATION OF A SCHOOL-AGE CHILD SUSPECTED OF HAVING A
26 DISABILITY OR WITH A DISABILITY WHICH IS CONDUCTED BY A CHILD CARE
27 INSTITUTION THAT OPERATES A SPECIAL EDUCATION SCHOOL OR THE SPECIAL
28 EDUCATION SCHOOL OPERATED BY SUCH INSTITUTION PURSUANT TO SUBDIVISION
29 THREE OF SECTION FOUR THOUSAND TWO OF THIS CHAPTER OR BY AN INSTITUTION
30 FOR THE DEAF OR BLIND OPERATING PURSUANT TO ARTICLE EIGHTY-FIVE OF THIS
31 CHAPTER OR AN EVALUATION OF A SCHOOL-AGE CHILD SUSPECTED OF HAVING A
32 DISABILITY OR WITH A DISABILITY THAT IS AUTHORIZED TO BE CONDUCTED BY A
33 SPECIAL EDUCATION SCHOOL PURSUANT TO ANY OTHER PROVISION OF THIS CHAPTER
34 AND THE REGULATIONS OF THE COMMISSIONER FOR PURPOSES OF IDENTIFICATION
35 OF THE CHILD AS A CHILD WITH A DISABILITY OR THE DEVELOPMENT OF AN INDI-
36 VIDUALIZED EDUCATION PROGRAM FOR THE CHILD.

37 E. "MULTI-DISCIPLINARY EVALUATION" FOR PURPOSES OF THE EARLY INTER-
38 VENTION PROGRAM MEANS A PROFESSIONAL, OBJECTIVE ASSESSMENT CONDUCTED BY
39 APPROPRIATELY QUALIFIED PERSONNEL IN ACCORDANCE WITH SECTION TWENTY-FIVE
40 HUNDRED FORTY-FOUR OF THE PUBLIC HEALTH LAW AND ITS IMPLEMENTING REGU-
41 LATIONS TO DETERMINE A CHILD'S ELIGIBILITY FOR EARLY INTERVENTION
42 PROGRAM SERVICES.

43 F. "RELATED SERVICES" MEANS RELATED SERVICES AS DEFINED IN PARAGRAPH G
44 OF SUBDIVISION TWO OF SECTION FOUR THOUSAND TWO, PARAGRAPH K OF SUBDIVI-
45 SION TWO OF SECTION FORTY-FOUR HUNDRED ONE, OR PARAGRAPH J OF SUBDIVI-
46 SION ONE OF SECTION FORTY-FOUR HUNDRED TEN OF THIS CHAPTER PROVIDED TO A
47 CHILD WITH A DISABILITY PURSUANT TO SUCH CHILD'S INDIVIDUALIZED EDUCA-
48 TION PROGRAM.

49 2. WAIVER. A. NO SPECIAL EDUCATION SCHOOL MAY EMPLOY INDIVIDUALS
50 LICENSED PURSUANT TO THIS ARTICLE TO CONDUCT COMPONENTS OF A MULTI-DIS-
51 CIPLINARY EVALUATION OF A CHILD WITH A DISABILITY OR A CHILD SUSPECTED
52 OF HAVING A DISABILITY OR TO PROVIDE RELATED SERVICES TO CHILDREN WITH
53 DISABILITIES ENROLLED IN THE SCHOOL, AND NO SPECIAL EDUCATION SCHOOL MAY
54 PROVIDE SUCH AN EVALUATION COMPONENT OR RELATED SERVICES BY CONTRACT
55 WITH AN INDIVIDUAL LICENSED OR OTHERWISE AUTHORIZED TO PRACTICE PURSUANT
56 TO THIS ARTICLE OR WITH A PROFESSIONAL SERVICE CORPORATION, PROFESSIONAL

SERVICE LIMITED LIABILITY COMPANY, OR REGISTERED LIMITED LIABILITY PARTNERSHIP AUTHORIZED BY LAW TO PROVIDE PROFESSIONAL SERVICES, UNLESS SUCH SCHOOL OBTAINS A WAIVER PURSUANT TO THIS SECTION. ALL SPECIAL EDUCATION SCHOOLS APPROVED BY THE COMMISSIONER AS OF THE EFFECTIVE DATE OF THIS SECTION SHALL BE DEEMED OPERATING UNDER A WAIVER PURSUANT TO THIS SECTION FOR A PERIOD COMMENCING ON SUCH EFFECTIVE DATE AND ENDING ON JULY FIRST, TWO THOUSAND ELEVEN.

B. NO EARLY INTERVENTION AGENCY MAY EMPLOY OR CONTRACT WITH INDIVIDUALS LICENSED PURSUANT TO THIS ARTICLE OR WITH A PROFESSIONAL SERVICE CORPORATION, PROFESSIONAL SERVICE LIMITED LIABILITY COMPANY, PARTNERSHIP OR REGISTERED LIMITED LIABILITY PARTNERSHIP AUTHORIZED BY LAW TO PROVIDE THE APPLICABLE PROFESSIONAL SERVICES, TO CONDUCT AN EARLY INTERVENTION PROGRAM MULTI-DISCIPLINARY EVALUATION, PROVIDE SERVICE COORDINATION SERVICES OR EARLY INTERVENTION PROGRAM SERVICES UNLESS SUCH AGENCY HAS OBTAINED A WAIVER PURSUANT TO THIS SECTION AND HAS BEEN APPROVED IN ACCORDANCE WITH TITLE TWO-A OF ARTICLE TWENTY-FIVE OF THE PUBLIC HEALTH LAW AS AN EARLY INTERVENTION PROGRAM PROVIDER. ALL EARLY INTERVENTION AGENCIES IN EXISTENCE AS OF THE EFFECTIVE DATE OF THIS SECTION SHALL BE DEEMED TO BE OPERATING UNDER A WAIVER PURSUANT TO THIS SECTION FOR A PERIOD COMMENCING ON SUCH EFFECTIVE DATE AND ENDING ON JULY FIRST, TWO THOUSAND ELEVEN. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO REQUIRE AN EARLY INTERVENTION AGENCY TO OPERATE UNDER A WAIVER IN ACCORDANCE WITH THIS SECTION PROVIDED THAT IT IS OTHERWISE AUTHORIZED BY LAW TO PROVIDE THE APPLICABLE PROFESSIONAL SERVICES.

3. OBTAINING A WAIVER. A. A SPECIAL EDUCATION SCHOOL AND EARLY INTERVENTION AGENCY SHALL OBTAIN AN APPLICATION FOR A WAIVER ON A FORM PRESCRIBED BY THE DEPARTMENT.

B. WITHIN ONE HUNDRED TWENTY DAYS AFTER THE COMMISSIONER PRESCRIBES THE APPLICATION FORM AND POSTS NOTICE OF ITS AVAILABILITY ON THE DEPARTMENT'S WEBSITE, A SPECIAL EDUCATION SCHOOL OR EARLY INTERVENTION AGENCY MUST APPLY FOR A WAIVER. UPON SUBMISSION OF SUCH APPLICATION, THE SCHOOL OR AGENCY MAY CONTINUE TO OPERATE AND PROVIDE SERVICES UNTIL THE DEPARTMENT SHALL EITHER DENY OR APPROVE THE APPLICATION. AFTER THE DEPARTMENT RENDERS A TIMELY INITIAL DETERMINATION THAT THE APPLICANT HAS SUBMITTED THE INFORMATION NECESSARY TO VERIFY THAT THE REQUIREMENTS OF PARAGRAPHS C, D AND E OF THIS SUBDIVISION ARE SATISFIED, APPLICATIONS FOR WAIVERS SHALL BE APPROVED OR DENIED WITHIN NINETY DAYS, PROVIDED HOWEVER THAT IF THE WAIVER APPLICATION IS DENIED THE SCHOOL OR AGENCY SHALL CEASE PROVIDING SERVICES PURSUANT TO THIS SUBDIVISION IN THE STATE OF NEW YORK.

C. SUCH WAIVER SHALL PROVIDE THAT SERVICES RENDERED PURSUANT TO THIS SECTION, DIRECTLY OR INDIRECTLY, SHALL BE PROVIDED ONLY BY A PERSON APPROPRIATELY LICENSED, EXCEPT AS OTHERWISE PROVIDED IN LAW, TO PROVIDE SUCH SERVICES OR BY A PROFESSIONAL SERVICES ENTITY AUTHORIZED BY LAW TO PROVIDE SUCH SERVICES.

D. AN APPLICATION FOR A WAIVER TO PROVIDE SERVICES PURSUANT TO THIS SECTION SHALL BE ON A FORM PRESCRIBED BY THE COMMISSIONER. SUCH APPLICATION SHALL INCLUDE:

(I) THE NAME OF THE SPECIAL EDUCATION SCHOOL OR EARLY INTERVENTION AGENCY;

(II) THE NAMES OF THE DIRECTORS AND OFFICERS OF SUCH SCHOOL OR AGENCY;

(III) A LISTING OF ANY OTHER JURISDICTIONS WHERE SUCH SCHOOL OR AGENCY MAY PROVIDE SERVICES; AND

(IV) AN ATTESTATION MADE BY AN OFFICER AUTHORIZED BY SUCH SCHOOL OR AGENCY TO MAKE SUCH ATTESTATION THAT IDENTIFIES THE SCOPE OF SERVICES TO BE PROVIDED; INCLUDES A LIST OF PROFESSIONS UNDER THIS TITLE IN WHICH

1 PROFESSIONAL SERVICES WILL BE PROVIDED BY SUCH SCHOOL OR AGENCY;
2 INCLUDES A STATEMENT THAT, UNLESS OTHERWISE AUTHORIZED BY LAW, THE
3 SCHOOL OR AGENCY SHALL ONLY PROVIDE SERVICES AUTHORIZED UNDER THIS
4 SECTION; INCLUDES A STATEMENT THAT ONLY A LICENSED PROFESSIONAL, A
5 PERSON OTHERWISE AUTHORIZED TO PROVIDE SUCH SERVICES, OR A PROFESSIONAL
6 SERVICES ENTITY AUTHORIZED BY LAW TO PROVIDE SUCH SERVICES SHALL PROVIDE
7 SUCH SERVICES AS AUTHORIZED UNDER THIS SECTION; AND ATTESTS TO THE
8 ADEQUACY OF THE SCHOOL'S OR AGENCY'S FISCAL AND FINANCIAL RESOURCES TO
9 PROVIDE SUCH SERVICES. SUCH APPLICATION SHALL ALSO INCLUDE ANY OTHER
10 INFORMATION RELATED TO THE APPLICATION AS MAY BE REQUIRED BY THE DEPART-
11 MENT.

12 E. EACH OFFICER AND DIRECTOR OF SUCH SCHOOL OR AGENCY SHALL PROVIDE AN
13 ATTESTATION REGARDING HIS OR HER GOOD MORAL CHARACTER AS REQUIRED PURSU-
14 ANT TO PARAGRAPH G OF THIS SUBDIVISION. SUCH STATEMENT SHALL SET FORTH
15 ANY CRIMINAL CONVICTIONS, PENDING CRIMINAL CHARGES, DETERMINATIONS OF
16 PROFESSIONAL MISCONDUCT, PENDING CHARGES OF PROFESSIONAL MISCONDUCT, OR
17 ANY LIMITATIONS ON PROFESSIONAL PRACTICE. THE COMMISSIONER SHALL BE
18 FURTHER AUTHORIZED TO PROMULGATE RULES OR REGULATIONS RELATING TO THE
19 STANDARDS OF THE WAIVER FOR SPECIAL EDUCATION SCHOOLS AND EARLY INTER-
20 VENTION AGENCIES PURSUANT TO THIS SECTION. SUCH REGULATIONS SHALL
21 INCLUDE STANDARDS RELATING TO THE SCHOOL'S OR AGENCY'S ABILITY TO
22 PROVIDE SERVICES, THE SCHOOL'S OR AGENCY'S MAINTENANCE OF PATIENT AND
23 BUSINESS RECORDS, THE SCHOOL'S OR AGENCY'S FISCAL POLICIES, AND SUCH
24 OTHER STANDARDS AS MAY BE PRESCRIBED BY THE COMMISSIONER.

25 F. THE SPECIAL EDUCATION SCHOOL OR EARLY INTERVENTION AGENCY OPERATING
26 PURSUANT TO A WAIVER SHALL DISPLAY, AT EACH SITE WHERE SERVICES ARE
27 PROVIDED TO THE PUBLIC, A CERTIFICATE OF SUCH WAIVER ISSUED BY THE
28 DEPARTMENT PURSUANT TO THIS SECTION, WHICH SHALL CONTAIN THE NAME OF THE
29 SCHOOL OR AGENCY AND THE ADDRESS OF THE SITE. SUCH SCHOOLS OR AGENCIES
30 SHALL OBTAIN FROM THE DEPARTMENT ADDITIONAL CERTIFICATES FOR EACH SITE
31 AT WHICH PROFESSIONAL SERVICES ARE PROVIDED TO THE PUBLIC. EACH SCHOOL
32 OR AGENCY SHALL BE REQUIRED TO RE-APPLY FOR A WAIVER EVERY THREE YEARS.
33 AN EARLY INTERVENTION AGENCY'S WAIVER SHALL NOT BE RENEWED UNLESS THE
34 AGENCY IS APPROVED TO PROVIDE EARLY INTERVENTION PROGRAM MULTI-DISCIPLI-
35 NARY EVALUATIONS, SERVICE COORDINATION OR EARLY INTERVENTION PROGRAM
36 SERVICES IN ACCORDANCE WITH TITLE TWO-A OF ARTICLE TWENTY-FIVE OF THE
37 PUBLIC HEALTH LAW. EXCEPT AS OTHERWISE PROVIDED IN SUBDIVISION FOUR OF
38 THIS SECTION, IF ANY INFORMATION SUPPLIED TO THE DEPARTMENT REGARDING
39 THE SCHOOL OR AGENCY SHALL CHANGE, THE SCHOOL OR AGENCY SHALL BE
40 REQUIRED TO PROVIDE SUCH UPDATED INFORMATION TO THE DEPARTMENT WITHIN
41 SIXTY DAYS.

42 G. ALL OFFICERS AND DIRECTORS OF SUCH SCHOOLS OR AGENCIES SHALL BE OF
43 GOOD MORAL CHARACTER. SCHOOLS OR AGENCIES OPERATING PURSUANT TO A WAIVER
44 AND THEIR OFFICERS AND DIRECTORS SHALL BE ENTITLED TO THE SAME DUE PROC-
45 ESS PROCEDURES AS ARE PROVIDED TO SUCH INDIVIDUALS AND PROFESSIONAL
46 SERVICES CORPORATIONS. NO WAIVER ISSUED UNDER THIS SECTION SHALL BE
47 TRANSFERABLE OR ASSIGNABLE, AS SUCH TERMS ARE DEFINED IN THE REGULATIONS
48 OF THE COMMISSIONER.

49 4. CHANGE OF LOCATION. IN THE EVENT THAT A CHANGE IN THE LOCATION OF
50 THE CHIEF ADMINISTRATIVE OFFICES OF A SPECIAL EDUCATION SCHOOL OR EARLY
51 INTERVENTION AGENCY IS CONTEMPLATED, THE OWNER SHALL NOTIFY THE OFFICE
52 OF PROFESSIONS OF THE DEPARTMENT OF THE CHANGE OF LOCATION AT LEAST
53 THIRTY DAYS PRIOR TO RELOCATION.

54 5. PROFESSIONAL PRACTICE. A. NOTWITHSTANDING ANY OTHER PROVISION OF
55 LAW TO THE CONTRARY, A SPECIAL EDUCATION SCHOOL OPERATING UNDER A WAIVER
56 MAY EMPLOY INDIVIDUALS LICENSED OR OTHERWISE AUTHORIZED TO PRACTICE ANY

PROFESSION PURSUANT TO THIS ARTICLE TO CONDUCT COMPONENTS OF A MULTI-DISCIPLINARY EVALUATION OF A CHILD WITH A DISABILITY OR A CHILD SUSPECTED OF HAVING A DISABILITY OR TO PROVIDE RELATED SERVICES TO CHILDREN WITH DISABILITIES ENROLLED IN THE SCHOOL OR MAY PROVIDE COMPONENTS OF SUCH AN EVALUATION OR SUCH RELATED SERVICES BY CONTRACT WITH AN INDIVIDUAL LICENSED OR OTHERWISE AUTHORIZED TO PRACTICE PURSUANT TO THIS ARTICLE OR A PROFESSIONAL SERVICE CORPORATION, PROFESSIONAL SERVICE LIMITED LIABILITY COMPANY, PARTNERSHIP OR REGISTERED LIMITED LIABILITY PARTNERSHIP AUTHORIZED BY LAW TO PROVIDE THE APPLICABLE PROFESSIONAL SERVICES.

B. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, AN EARLY INTERVENTION AGENCY OPERATING UNDER A WAIVER THAT IS APPROVED IN ACCORDANCE WITH TITLE TWO-A OF ARTICLE TWENTY-FIVE OF THE PUBLIC HEALTH LAW MAY EMPLOY OR CONTRACT WITH INDIVIDUALS LICENSED OR OTHERWISE AUTHORIZED TO PRACTICE ANY PROFESSION PURSUANT TO THIS ARTICLE OR WITH A PROFESSIONAL SERVICE CORPORATION, PROFESSIONAL SERVICE LIMITED LIABILITY COMPANY, PARTNERSHIP OR REGISTERED LIMITED LIABILITY PARTNERSHIP AUTHORIZED TO CONDUCT EARLY INTERVENTION PROGRAM MULTI-DISCIPLINARY EVALUATIONS, PROVIDE SERVICE COORDINATION SERVICES AND EARLY INTERVENTION PROGRAM SERVICES.

C. A SPECIAL EDUCATION SCHOOL OR EARLY INTERVENTION AGENCY OPERATING UNDER A WAIVER SHALL NOT PRACTICE ANY PROFESSION LICENSED PURSUANT TO THIS TITLE OR HOLD ITSELF OUT TO THE PUBLIC AS AUTHORIZED TO PROVIDE PROFESSIONAL SERVICES PURSUANT TO THIS TITLE EXCEPT AS AUTHORIZED BY THIS SECTION OR OTHERWISE AUTHORIZED BY LAW.

6. SUPERVISION OF PROFESSIONAL PRACTICE. A SPECIAL EDUCATION SCHOOL OR EARLY INTERVENTION AGENCY SHALL BE UNDER THE SUPERVISION OF THE REGENTS OF THE UNIVERSITY OF THE STATE OF NEW YORK AND BE SUBJECT TO DISCIPLINARY PROCEEDINGS AND PENALTIES. A SPECIAL EDUCATION SCHOOL OR EARLY INTERVENTION AGENCY OPERATING UNDER A WAIVER SHALL BE SUBJECT TO SUSPENSION, REVOCATION OR ANNULMENT FOR CAUSE, IN THE SAME MANNER AND TO THE SAME EXTENT AS IS PROVIDED WITH RESPECT TO INDIVIDUALS AND THEIR LICENSES, CERTIFICATES, AND REGISTRATIONS IN THE PROVISIONS OF THIS TITLE RELATING TO THE APPLICABLE PROFESSION. NOTWITHSTANDING THE PROVISIONS OF THIS SUBDIVISION, A SPECIAL EDUCATION SCHOOL OR EARLY INTERVENTION AGENCY THAT CONDUCTS OR CONTRACTS FOR A COMPONENT OF A MULTI-DISCIPLINARY EVALUATION THAT INVOLVES THE PRACTICE OF MEDICINE SHALL BE SUBJECT TO THE PRE-HEARING PROCEDURES AND HEARING PROCEDURES AS IS PROVIDED WITH RESPECT TO INDIVIDUAL PHYSICIANS AND THEIR LICENSES IN TITLE TWO-A OF ARTICLE TWO OF THE PUBLIC HEALTH LAW. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, UPON REVOCATION OR OTHER TERMINATION BY THE COMMISSIONER OF APPROVAL OF THE SPECIAL EDUCATION SCHOOL PURSUANT TO ARTICLE EIGHTY-NINE OF THIS CHAPTER AND THE REGULATIONS OF THE COMMISSIONER IMPLEMENTING SUCH ARTICLE OR OF THE EARLY INTERVENTION AGENCY PURSUANT TO TITLE TWO-A OF ARTICLE TWENTY-FIVE OF THE PUBLIC HEALTH LAW AND IMPLEMENTING REGULATIONS, THE SCHOOL'S OR EARLY INTERVENTION AGENCY'S WAIVER PURSUANT TO THIS SECTION SHALL BE DEEMED REVOKED AND ANNULLED.

S 5. Notwithstanding any laws to the contrary, a provider of a program approved pursuant to subdivision 9 of section 4410 of the education law that, prior to the effective date of this act, was organized as a for-profit business entity and that is not qualified to receive a waiver pursuant to the provisions of this act, shall continue to operate and provide services pursuant to the approved program for a period up to and ending on June 30, 2013. Commencing on July 1, 2013, the approval of such provider to operate the program shall be deemed revoked and termi-

1 nated, unless the provider is organized or formed in a manner prescribed
2 by law that authorizes the provider to operate and provide the approved
3 program, as approved by the commissioner of education.
4 S 6. This act shall take effect June 30, 2010.