

5524

2011-2012 Regular Sessions

I N S E N A T E

May 31, 2011

Introduced by Sen. FLANAGAN -- (at request of the State Education Department) -- read twice and ordered printed, and when printed to be committed to the Committee on Education

AN ACT to amend the education law, in relation to special education services, programs for preschool children with disabilities, waivers for certain special education schools and early intervention agencies; and to repeal certain provisions 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2 REPEALED and a new subdivision 6 is added to read as follows: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-B OF
8 THIS CHAPTER.
9 B. AN APPROVED PROGRAM MAY BE FORMED AS AN EDUCATION CORPORATION, OR
10 WITH THE CONSENT OF THE COMMISSIONER AS: (I) A NOT-FOR-PROFIT CORPO-
11 RATION; (II) A BUSINESS CORPORATION THAT HAS THE OPERATION OF AN
12 APPROVED PROGRAM OR ANOTHER SPECIAL EDUCATION SCHOOL AS A PRIMARY
13 PURPOSE; (III) A LIMITED LIABILITY COMPANY; (IV) A PROFESSIONAL SERVICE
14 LIMITED LIABILITY COMPANY OR A FOREIGN PROFESSIONAL SERVICE LIMITED
15 LIABILITY COMPANY IN ACCORDANCE WITH THE APPLICABLE PROVISIONS OF ARTI-
16 CLE TWELVE OR THIRTEEN OF THE LIMITED LIABILITY COMPANY LAW; (V) A
17 REGISTERED LIMITED LIABILITY PARTNERSHIP OR REGISTERED FOREIGN LIMITED
18 LIABILITY PARTNERSHIP IN ACCORDANCE WITH ARTICLE EIGHT-B OF THE PARTNER-
19 SHIP LAW. IN ADDITION, A GROUP OF APPROPRIATELY LICENSED OR CERTIFIED
20 PROFESSIONALS MAY BE FORMED AS A PROFESSIONAL SERVICES CORPORATION
21 ESTABLISHED PURSUANT TO ARTICLE FIFTEEN OF THE BUSINESS CORPORATION LAW
22 OR AS A PROFESSIONAL SERVICE LIMITED LIABILITY COMPANY, FOREIGN PROFES-

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

LBD11513-01-1

1 SIONAL SERVICE LIMITED LIABILITY COMPANY OR REGISTERED LIMITED LIABILITY
2 PARTNERSHIP OR REGISTERED FOREIGN LIMITED LIABILITY PARTNERSHIP IN
3 ACCORDANCE WITH ARTICLE EIGHT-B OF THE PARTNERSHIP LAW. AN APPROVED
4 PROGRAM FORMED AS SUCH A PROFESSIONAL SERVICE LIMITED LIABILITY COMPANY
5 OR REGISTERED LIMITED LIABILITY PARTNERSHIP MAY BE AUTHORIZED TO PROVIDE
6 SPECIAL EDUCATION ITINERANT SERVICES OR OTHER EDUCATIONAL SERVICES NOT
7 INVOLVING THE PRACTICE OF A PROFESSION UNDER TITLE EIGHT OF THIS CHAP-
8 TER, AND, UPON GRANT OF A WAIVER PURSUANT TO SECTION SIXTY-FIVE HUNDRED
9 THREE-B OF THIS CHAPTER, MAY EMPLOY OR CONTRACT WITH INDIVIDUALS
10 LICENSED OR OTHERWISE AUTHORIZED TO PRACTICE, OR WITH A PROFESSIONAL
11 SERVICE CORPORATION, PARTNERSHIP OR OTHER ENTITY LEGALLY AUTHORIZED TO
12 PRACTICE ANY PROFESSION UNDER TITLE EIGHT OF THIS CHAPTER IN WHICH THE
13 ENTITY WOULD NOT BE AUTHORIZED TO PROVIDE PROFESSIONAL SERVICES UNDER
14 THE APPLICABLE PROVISIONS OF SECTION TWELVE HUNDRED THREE OR SUBDIVISION
15 (A) OF SECTION THIRTEEN HUNDRED ONE OF THE LIMITED LIABILITY COMPANY LAW
16 OR SECTIONS 121-1500 OR 121-1502 OF THE PARTNERSHIP LAW, PROVIDED THAT
17 SUCH CONTRACT IS WITHIN THE SCOPE OF THE DEPARTMENT'S APPROVAL AND IS
18 ONLY FOR THE PURPOSE OF CONDUCTING A MULTI-DISCIPLINARY EVALUATION OF A
19 PRESCHOOL CHILD SUSPECTED OF HAVING A DISABILITY OR A PRESCHOOL CHILD
20 WITH A DISABILITY OR PROVIDING RELATED SERVICES SPECIFIED IN THE INDI-
21 VIDUALIZED EDUCATION PROGRAM OF A PRESCHOOL CHILD WITH A DISABILITY.

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

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

36 S 2. Paragraphs b and d of subdivision 9 of section 4410 of the educa-
37 tion law, as amended by chapter 705 of the laws of 1992, are amended to
38 read as follows:

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

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

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

Such application shall include, but not be limited to, a description of the multi-disciplinary evaluation services proposed to be provided and a demonstration that all agency employees and staff who provide such evaluation services shall have appropriate licensure and/or certification and that the individual who shall have direct supervision responsibilities over such staff shall have an appropriate level of experience in providing evaluation or services to preschool or kindergarten-aged children with [handicapping conditions] DISABILITIES. TO BE ELIGIBLE FOR APPROVAL AS AN EVALUATOR UNDER THIS SUBDIVISION ON AND AFTER JULY FIRST, TWO THOUSAND ELEVEN, A GROUP OF APPROPRIATELY LICENSED OR CERTIFIED PROFESSIONALS SHALL BE FORMED AS A LIMITED LIABILITY COMPANY OR PROFESSIONAL SERVICES CORPORATION ESTABLISHED PURSUANT TO ARTICLE FIFTEEN OF THE BUSINESS CORPORATION LAW, ARTICLE TWELVE OR THIRTEEN OF THE LIMITED LIABILITY COMPANY LAW OR ARTICLE EIGHT-B OF THE PARTNERSHIP LAW. THE APPROVAL OF ANY GROUPS OF LICENSED OR CERTIFIED PROFESSIONALS THAT ARE IN EXISTENCE ON JULY FIRST, TWO THOUSAND ELEVEN AND WOULD NOT BE ELIGIBLE FOR APPROVAL THEREAFTER SHALL TERMINATE ON JULY FIRST, TWO THOUSAND THIRTEEN.

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

S 6503-B. WAIVER FOR CERTAIN SPECIAL EDUCATION SCHOOLS AND EARLY INTERVENTION AGENCIES. 1. DEFINITIONS. AS USED IN THIS SECTION THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

A. "SPECIAL EDUCATION SCHOOL" MEANS AN APPROVED PROGRAM AS DEFINED IN PARAGRAPH B OF SUBDIVISION ONE OF SECTION FORTY-FOUR HUNDRED TEN OF THIS CHAPTER THAT MEETS THE REQUIREMENTS OF PARAGRAPH B OF SUBDIVISION SIX OF SUCH SECTION FORTY-FOUR HUNDRED TEN; AN APPROVED PRIVATE NON-RESIDENTIAL OR RESIDENTIAL SCHOOL FOR THE EDUCATION OF STUDENTS WITH DISABILITIES THAT IS LOCATED WITHIN THE STATE; A CHILD CARE INSTITUTION AS DEFINED IN SECTION FOUR THOUSAND ONE OF THIS CHAPTER THAT OPERATES A PRIVATE SCHOOL FOR THE EDUCATION OF STUDENTS WITH DISABILITIES OR AN INSTITUTION FOR THE DEAF OR BLIND OPERATING PURSUANT TO ARTICLE EIGHTY-FIVE OF THIS CHAPTER THAT EITHER: (1) CONDUCTS A MULTI-DISCIPLINARY EVALUATION FOR PURPOSES OF ARTICLES EIGHTY-ONE OR EIGHTY-NINE OF THIS CHAPTER THAT INVOLVES THE PRACTICE OF ONE OR MORE PROFESSIONS FOR WHICH A LICENSE IS REQUIRED PURSUANT TO THIS TITLE AND NO EXCEPTION FROM CORPORATE PRACTICE

1 RESTRICTIONS APPLIES, OR (2) PROVIDES RELATED SERVICES TO STUDENTS
2 ENROLLED IN THE SCHOOL OR APPROVED PROGRAM THAT INVOLVES THE PRACTICE OF
3 ONE OR MORE PROFESSIONS FOR WHICH A LICENSE IS REQUIRED PURSUANT TO THIS
4 TITLE AND NO EXCEPTION FROM PRACTICE RESTRICTIONS APPLIES. SUCH TERM
5 SHALL NOT INCLUDE A SCHOOL DISTRICT, BOARD OF COOPERATIVE EDUCATIONAL
6 SERVICES, MUNICIPALITY, STATE AGENCY OR OTHER PUBLIC ENTITY. NOTHING IN
7 THIS SECTION SHALL BE CONSTRUED TO REQUIRE A CHILD CARE INSTITUTION THAT
8 CONDUCTS MULTI-DISCIPLINARY EVALUATIONS OR PROVIDES RELATED SERVICES
9 THROUGH AN APPROVED PRIVATE NONRESIDENTIAL SCHOOL OPERATED BY SUCH CHILD
10 CARE INSTITUTION TO OBTAIN A WAIVER, PROVIDED THAT SUCH SCHOOL OBTAINS A
11 WAIVER PURSUANT TO THIS SECTION.

12 B. "EARLY INTERVENTION AGENCY" MEANS AN AGENCY WHICH IS APPROVED OR IS
13 SEEKING APPROVAL IN ACCORDANCE WITH TITLE TWO-A OF ARTICLE TWENTY-FIVE
14 OF THE PUBLIC HEALTH LAW TO DELIVER EARLY INTERVENTION PROGRAM
15 MULTI-DISCIPLINARY EVALUATIONS, SERVICE COORDINATION SERVICES AND EARLY
16 INTERVENTION PROGRAM SERVICES, AND IS LAWFULLY OPERATED AS A SOLE
17 PROPRIETORSHIP OR BY A PARTNERSHIP, NOT-FOR-PROFIT CORPORATION, EDUCA-
18 TION CORPORATION, BUSINESS CORPORATION, A LIMITED LIABILITY COMPANY OR
19 PROFESSIONAL SERVICES ORGANIZATION ESTABLISHED PURSUANT TO ARTICLE
20 FIFTEEN OF THE BUSINESS CORPORATION LAW, ARTICLE TWELVE OR THIRTEEN OF
21 THE LIMITED LIABILITY COMPANY LAW OR ARTICLE EIGHT-B OF THE PARTNERSHIP
22 LAW.

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

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

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

50 F. "RELATED SERVICES" MEANS RELATED SERVICES AS DEFINED IN PARAGRAPH G
51 OF SUBDIVISION TWO OF SECTION FOUR THOUSAND TWO, PARAGRAPH K OF SUBDIVI-
52 SION TWO OF SECTION FORTY-FOUR HUNDRED ONE, OR PARAGRAPH J OF SUBDIVI-
53 SION ONE OF SECTION FORTY-FOUR HUNDRED TEN OF THIS CHAPTER PROVIDED TO A
54 CHILD WITH A DISABILITY PURSUANT TO SUCH CHILD'S INDIVIDUALIZED EDUCA-
55 TION PROGRAM.

1 2. WAIVER. A. NO SPECIAL EDUCATION SCHOOL MAY EMPLOY INDIVIDUALS
2 LICENSED PURSUANT TO THIS ARTICLE TO CONDUCT COMPONENTS OF A MULTI-DIS-
3 CIPLINARY EVALUATION OF A CHILD WITH A DISABILITY OR A CHILD SUSPECTED
4 OF HAVING A DISABILITY OR TO PROVIDE RELATED SERVICES TO CHILDREN WITH
5 DISABILITIES ENROLLED IN THE SCHOOL, AND NO SPECIAL EDUCATION SCHOOL MAY
6 PROVIDE SUCH AN EVALUATION COMPONENT OR RELATED SERVICES BY CONTRACT
7 WITH AN INDIVIDUAL LICENSED OR OTHERWISE AUTHORIZED TO PRACTICE PURSUANT
8 TO THIS ARTICLE OR WITH AN ENTITY AUTHORIZED BY LAW TO PROVIDE SUCH
9 PROFESSIONAL SERVICES, UNLESS SUCH SCHOOL OBTAINS A WAIVER PURSUANT TO
10 THIS SECTION. ALL SPECIAL EDUCATION SCHOOLS APPROVED BY THE COMMISSIONER
11 AS OF THE EFFECTIVE DATE OF THIS SECTION SHALL BE DEEMED OPERATING UNDER
12 A WAIVER PURSUANT TO THIS SECTION FOR A PERIOD COMMENCING ON SUCH EFFEC-
13 TIVE DATE AND ENDING ON JULY FIRST, TWO THOUSAND THIRTEEN.

14 B. NO EARLY INTERVENTION AGENCY MAY EMPLOY OR CONTRACT WITH INDIVID-
15 UALS LICENSED PURSUANT TO THIS ARTICLE OR WITH A NOT-FOR-PROFIT CORPO-
16 RATION, EDUCATION CORPORATION, BUSINESS CORPORATION, LIMITED LIABILITY
17 COMPANY, OR A PROFESSIONAL SERVICES ORGANIZATION ESTABLISHED PURSUANT TO
18 ARTICLE FIFTEEN OF THE BUSINESS CORPORATION LAW, ARTICLE TWELVE OR THIR-
19 TEEN OF THE LIMITED LIABILITY COMPANY LAW OR ARTICLE EIGHT-B OF THE
20 PARTNERSHIP LAW, TO CONDUCT AN EARLY INTERVENTION PROGRAM MULTI-DISCI-
21 PLINARY EVALUATION, PROVIDE SERVICE COORDINATION SERVICES OR EARLY
22 INTERVENTION PROGRAM SERVICES UNLESS SUCH AGENCY HAS OBTAINED A WAIVER
23 PURSUANT TO THIS SECTION AND HAS BEEN APPROVED IN ACCORDANCE WITH TITLE
24 TWO-A OF ARTICLE TWENTY-FIVE OF THE PUBLIC HEALTH LAW AS AN EARLY INTER-
25 VENTION PROGRAM PROVIDER. ALL EARLY INTERVENTION AGENCIES APPROVED AS OF
26 THE EFFECTIVE DATE OF THIS SECTION SHALL BE DEEMED TO BE OPERATING UNDER
27 A WAIVER PURSUANT TO THIS SECTION FOR A PERIOD COMMENCING ON SUCH EFFEC-
28 TIVE DATE AND ENDING ON JULY FIRST, TWO THOUSAND THIRTEEN. NOTHING IN
29 THIS SECTION SHALL BE CONSTRUED TO REQUIRE AN EARLY INTERVENTION AGENCY
30 TO OPERATE UNDER A WAIVER IN ACCORDANCE WITH THIS SECTION PROVIDED THAT
31 IT IS OTHERWISE AUTHORIZED BY LAW TO PROVIDE THE APPLICABLE PROFESSIONAL
32 SERVICES.

33 3. OBTAINING A WAIVER. A. A SPECIAL EDUCATION SCHOOL AND EARLY INTER-
34 VENTION AGENCY SHALL OBTAIN AN APPLICATION FOR A WAIVER ON A FORM
35 PRESCRIBED BY THE DEPARTMENT. THE DEPARTMENT MAY ISSUE A WAIVER ON OR
36 AFTER JULY FIRST, TWO THOUSAND THIRTEEN TO AN ENTITY WHICH WAS CREATED
37 BEFORE, ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION IF THERE IS
38 DEMONSTRATION OF NEED OF THE ENTITY'S SERVICES SATISFACTORY TO THE
39 DEPARTMENT. THE APPLICATION FOR AN INITIAL WAIVER SHALL BE ACCOMPANIED
40 BY A FEE OF THREE HUNDRED FORTY-FIVE DOLLARS. WHERE THE APPLICANT SIMUL-
41 TANEOUSLY APPLIES FOR A WAIVER AS A SPECIAL EDUCATION SCHOOL AND EARLY
42 INTERVENTION AGENCY THE TOTAL WAIVER FEE SHALL BE THREE HUNDRED
43 FORTY-FIVE DOLLARS.

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

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

6 D. AN APPLICATION FOR A WAIVER TO PROVIDE PROFESSIONAL SERVICES PURSU-
7 ANT TO THIS SECTION SHALL BE ON A FORM PRESCRIBED BY THE COMMISSIONER.
8 SUCH APPLICATION SHALL INCLUDE: (I) THE NAME OF THE SPECIAL EDUCATION
9 SCHOOL OR EARLY INTERVENTION AGENCY; (II) THE NAMES OF THE DIRECTORS OR
10 TRUSTEES AND OFFICERS OF SUCH SCHOOL OR AGENCY; (III) A LISTING OF ANY
11 OTHER JURISDICTIONS WHERE SUCH SCHOOL OR AGENCY MAY PROVIDE SERVICES;
12 AND (IV) AN ATTESTATION MADE BY AN OFFICER AUTHORIZED BY SUCH SCHOOL OR
13 AGENCY TO MAKE SUCH ATTESTATION THAT IDENTIFIES THE SCOPE OF SERVICES TO
14 BE PROVIDED; INCLUDES A LIST OF PROFESSIONS UNDER THIS TITLE IN WHICH
15 PROFESSIONAL SERVICES WILL BE PROVIDED BY SUCH SCHOOL OR AGENCY;
16 INCLUDES A STATEMENT THAT, UNLESS OTHERWISE AUTHORIZED BY LAW, THE
17 SCHOOL OR AGENCY SHALL ONLY PROVIDE SERVICES AUTHORIZED UNDER THIS
18 SECTION; INCLUDES A STATEMENT THAT ONLY A LICENSED PROFESSIONAL, A
19 PERSON OTHERWISE AUTHORIZED TO PROVIDE SUCH SERVICES, OR A PROFESSIONAL
20 SERVICES ENTITY AUTHORIZED BY LAW TO PROVIDE SUCH SERVICES SHALL PROVIDE
21 SUCH SERVICES AS AUTHORIZED UNDER THIS SECTION; AND ATTESTS TO THE
22 ADEQUACY OF THE SCHOOL'S OR AGENCY'S FISCAL AND FINANCIAL RESOURCES TO
23 PROVIDE SUCH SERVICES. SUCH APPLICATION SHALL ALSO INCLUDE ANY OTHER
24 INFORMATION RELATED TO THE APPLICATION AS MAY BE REQUIRED BY THE DEPART-
25 MENT. A SCHOOL OR AGENCY WITH AN APPROVED WAIVER MAY APPLY, ON A FORM
26 PRESCRIBED BY THE COMMISSIONER, TO AMEND THE WAIVER TO ADD ADDITIONAL
27 PROFESSIONAL SERVICES.

28 E. EACH OFFICER, TRUSTEE AND DIRECTOR OF SUCH SCHOOL OR AGENCY SHALL
29 PROVIDE AN ATTESTATION REGARDING HIS OR HER GOOD MORAL CHARACTER AS
30 REQUIRED PURSUANT TO PARAGRAPH G OF THIS SUBDIVISION. THE COMMISSIONER
31 SHALL BE FURTHER AUTHORIZED TO PROMULGATE RULES OR REGULATIONS RELATING
32 TO THE STANDARDS OF THE WAIVER FOR SPECIAL EDUCATION SCHOOLS AND EARLY
33 INTERVENTION AGENCIES PURSUANT TO THIS SECTION. SUCH REGULATIONS SHALL
34 INCLUDE STANDARDS RELATING TO THE SCHOOL'S OR AGENCY'S ABILITY TO
35 PROVIDE SERVICES, THE SCHOOL'S OR AGENCY'S MAINTENANCE OF STUDENT OR
36 CLIENT AND BUSINESS RECORDS, THE SCHOOL'S OR AGENCY'S FISCAL POLICIES,
37 AND SUCH OTHER STANDARDS AS MAY BE PRESCRIBED BY THE COMMISSIONER.

38 F. THE SPECIAL EDUCATION SCHOOL OR EARLY INTERVENTION AGENCY OPERATING
39 PURSUANT TO A WAIVER SHALL DISPLAY, AT EACH SITE WHERE SERVICES ARE
40 PROVIDED TO THE PUBLIC, A CERTIFICATE OF SUCH WAIVER ISSUED BY THE
41 DEPARTMENT PURSUANT TO THIS SECTION, WHICH SHALL CONTAIN THE NAME OF THE
42 SCHOOL OR AGENCY AND THE ADDRESS OF THE SITE. SUCH SCHOOLS OR AGENCIES
43 SHALL OBTAIN FROM THE DEPARTMENT ADDITIONAL CERTIFICATES FOR EACH SITE
44 AT WHICH PROFESSIONAL SERVICES ARE PROVIDED TO THE PUBLIC. EACH SCHOOL
45 OR AGENCY SHALL BE REQUIRED TO RE-APPLY FOR A WAIVER EVERY THREE YEARS.
46 AN EARLY INTERVENTION AGENCY'S WAIVER SHALL NOT BE RENEWED UNLESS THE
47 AGENCY IS APPROVED TO PROVIDE EARLY INTERVENTION PROGRAM MULTI-DISCIPLI-
48 NARY EVALUATIONS, SERVICE COORDINATION OR EARLY INTERVENTION PROGRAM
49 SERVICES IN ACCORDANCE WITH TITLE TWO-A OF ARTICLE TWENTY-FIVE OF THE
50 PUBLIC HEALTH LAW. EXCEPT AS OTHERWISE PROVIDED IN SUBDIVISION FOUR OF
51 THIS SECTION, IF ANY INFORMATION SUPPLIED TO THE DEPARTMENT REGARDING
52 THE SCHOOL OR AGENCY SHALL CHANGE, THE SCHOOL OR AGENCY SHALL BE
53 REQUIRED TO PROVIDE SUCH UPDATED INFORMATION TO THE DEPARTMENT WITHIN
54 SIXTY DAYS.

55 G. ALL OFFICERS, TRUSTEES AND DIRECTORS OF SUCH SCHOOLS OR AGENCIES
56 SHALL BE OF GOOD MORAL CHARACTER. SCHOOLS OR AGENCIES OPERATING PURSUANT

1 TO A WAIVER AND THEIR OFFICERS AND DIRECTORS SHALL BE ENTITLED TO THE
2 SAME DUE PROCESS PROCEDURES AS ARE PROVIDED TO SUCH INDIVIDUALS AND
3 PROFESSIONAL SERVICES CORPORATIONS. NO WAIVER ISSUED UNDER THIS SECTION
4 SHALL BE TRANSFERABLE OR ASSIGNABLE; AS SUCH TERMS ARE DEFINED IN THE
5 REGULATIONS OF THE COMMISSIONER.

6 4. RENEWAL OF WAIVER. A. ALL SPECIAL EDUCATION SCHOOL AND EARLY INTER-
7 VENTION AGENCY WAIVERS SHALL BE RENEWED ON DATES SET BY THE DEPARTMENT.
8 THE TRIENNIAL WAIVER FEE SHALL BE TWO HUNDRED SIXTY DOLLARS OR A
9 PRO-RATED PORTION THEREOF AS DETERMINED BY THE DEPARTMENT. AN EARLY
10 INTERVENTION AGENCY'S WAIVER SHALL NOT BE RENEWED UNLESS THE AGENCY IS
11 APPROVED TO PROVIDE EARLY INTERVENTION PROGRAM MULTI-DISCIPLINARY EVALU-
12 ATIONS, SERVICE COORDINATION NOR EARLY INTERVENTION PROGRAM SERVICES IN
13 ACCORDANCE WITH TITLE TWO-A OF ARTICLE TWENTY-FIVE OF THE PUBLIC HEALTH
14 LAW.

15 5. CHANGE OF LOCATION. IN THE EVENT THAT A CHANGE IN THE LOCATION OF
16 THE CHIEF ADMINISTRATIVE OFFICES OF A SPECIAL EDUCATION SCHOOL OR EARLY
17 INTERVENTION AGENCY IS CONTEMPLATED, THE OWNER SHALL NOTIFY THE OFFICE
18 OF PROFESSIONS OF THE DEPARTMENT OF THE CHANGE OF LOCATION AT LEAST
19 THIRTY DAYS PRIOR TO RELOCATION.

20 6. PROFESSIONAL PRACTICE. A. NOTWITHSTANDING ANY OTHER PROVISION OF
21 LAW TO THE CONTRARY, A SPECIAL EDUCATION SCHOOL OPERATING UNDER A WAIVER
22 MAY EMPLOY INDIVIDUALS LICENSED OR OTHERWISE AUTHORIZED TO PRACTICE ANY
23 PROFESSION PURSUANT TO THIS ARTICLE TO CONDUCT COMPONENTS OF A
24 MULTI-DISCIPLINARY EVALUATION OF A CHILD WITH A DISABILITY OR A CHILD
25 SUSPECTED OF HAVING A DISABILITY OR TO PROVIDE RELATED SERVICES TO CHIL-
26 DREN WITH DISABILITIES ENROLLED IN THE SCHOOL OR MAY PROVIDE COMPONENTS
27 OF SUCH AN EVALUATION OR SUCH RELATED SERVICES BY CONTRACT WITH AN INDI-
28 VIDUAL LICENSED OR OTHERWISE AUTHORIZED TO PRACTICE PURSUANT TO THIS
29 ARTICLE OR A NOT-FOR-PROFIT CORPORATION, EDUCATION CORPORATION, BUSINESS
30 CORPORATION, LIMITED LIABILITY COMPANY OR PROFESSIONAL SERVICES ORGAN-
31 IZATION ESTABLISHED PURSUANT TO ARTICLE FIFTEEN OF THE BUSINESS CORPO-
32 RATION LAW, ARTICLE TWELVE OR THIRTEEN OF THE LIMITED LIABILITY COMPANY
33 LAW OR ARTICLE EIGHT-B OF THE PARTNERSHIP LAW AUTHORIZED BY LAW TO
34 PROVIDE THE APPLICABLE PROFESSIONAL SERVICES.

35 B. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, AN
36 EARLY INTERVENTION AGENCY OPERATING UNDER A WAIVER THAT IS APPROVED IN
37 ACCORDANCE WITH TITLE TWO-A OF ARTICLE TWENTY-FIVE OF THE PUBLIC HEALTH
38 LAW MAY EMPLOY OR CONTRACT WITH INDIVIDUALS LICENSED OR OTHERWISE
39 AUTHORIZED TO PRACTICE ANY PROFESSION PURSUANT TO THIS ARTICLE OR WITH A
40 NOT-FOR-PROFIT CORPORATION, EDUCATION CORPORATION, BUSINESS CORPORATION,
41 LIMITED LIABILITY COMPANY OR PROFESSIONAL SERVICES ORGANIZATION ESTAB-
42 LISHED PURSUANT TO ARTICLE FIFTEEN OF THE BUSINESS CORPORATION LAW,
43 ARTICLE TWELVE OR THIRTEEN OF THE LIMITED LIABILITY COMPANY LAW OR ARTI-
44 CLE EIGHT-B OF THE PARTNERSHIP LAW AUTHORIZED TO CONDUCT EARLY INTER-
45 VENTION PROGRAM MULTI-DISCIPLINARY EVALUATIONS, PROVIDE SERVICE COORDI-
46 NATION SERVICES AND EARLY INTERVENTION PROGRAM SERVICES.

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

52 7. SUPERVISION OF PROFESSIONAL PRACTICE. A SPECIAL EDUCATION SCHOOL OR
53 EARLY INTERVENTION AGENCY SHALL BE UNDER THE SUPERVISION OF THE REGENTS
54 OF THE UNIVERSITY OF THE STATE OF NEW YORK AND BE SUBJECT TO DISCIPLI-
55 NARY PROCEEDINGS AND PENALTIES. A SPECIAL EDUCATION SCHOOL OR EARLY
56 INTERVENTION AGENCY OPERATING UNDER A WAIVER SHALL BE SUBJECT TO SUSPEN-

1 SION, REVOCATION OR ANNULMENT OF THE WAIVER FOR CAUSE, IN THE SAME
2 MANNER AND TO THE SAME EXTENT AS IS PROVIDED WITH RESPECT TO INDIVIDUALS
3 AND THEIR LICENSES, CERTIFICATES, AND REGISTRATIONS IN THE PROVISIONS OF
4 THIS TITLE RELATING TO THE APPLICABLE PROFESSION. NOTWITHSTANDING THE
5 PROVISIONS OF THIS SUBDIVISION, A SPECIAL EDUCATION SCHOOL OR EARLY
6 INTERVENTION AGENCY THAT CONDUCTS OR CONTRACTS FOR A COMPONENT OF A
7 MULTI-DISCIPLINARY EVALUATION THAT INVOLVES THE PRACTICE OF MEDICINE
8 SHALL BE SUBJECT TO THE PRE-HEARING PROCEDURES AND HEARING PROCEDURES AS
9 IS PROVIDED WITH RESPECT TO INDIVIDUAL PHYSICIANS AND THEIR LICENSES IN
10 TITLE TWO-A OF ARTICLE TWO OF THE PUBLIC HEALTH LAW. NOTWITHSTANDING
11 ANY OTHER PROVISION OF LAW TO THE CONTRARY, UPON REVOCATION OR OTHER
12 TERMINATION BY THE COMMISSIONER OF APPROVAL OF THE SPECIAL EDUCATION
13 SCHOOL PURSUANT TO ARTICLE EIGHTY-NINE OF THIS CHAPTER AND THE REGU-
14 LATIONS OF THE COMMISSIONER IMPLEMENTING SUCH ARTICLE OR TERMINATION OF
15 THE EARLY INTERVENTION AGENCY PURSUANT TO TITLE TWO-A OF ARTICLE TWEN-
16 TY-FIVE OF THE PUBLIC HEALTH LAW AND IMPLEMENTING REGULATIONS BY THE
17 COMMISSIONER PURSUANT TO SUBDIVISION EIGHTEEN OF SECTION FORTY-FOUR
18 HUNDRED THREE OF THIS CHAPTER, THE SCHOOL'S OR EARLY INTERVENTION AGEN-
19 CY'S WAIVER PURSUANT TO THIS SECTION SHALL BE DEEMED REVOKED AND
20 ANNULLED.

21 S 5. This act shall take effect immediately, except that if this act
22 shall have become a law on or after June 30, 2011 this act shall take
23 effect immediately and shall be deemed to have been in full force and
24 effect on and after June 30, 2011.