§ 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 restrictions applies, or (2) provides related services to students enrolled in the school or approved program that involves the practice of one or more professions for which a license is required pursuant to this title and no exception from practice restrictions applies. Such term shall not include a school district, board of cooperative educational services, municipality, state agency or other public entity. Nothing in this section shall be construed to require a child care institution that conducts multi-disciplinary evaluations or provides related services through an approved private nonresidential school operated by such child care institution to obtain a waiver, provided that such school obtains a waiver pursuant to this section.

b. "Early intervention agency" means an agency which is approved or is seeking approval in accordance with title two-A of article twenty-five of the public health law to deliver early intervention program multi-disciplinary evaluations, service coordination services and early intervention program services, and is lawfully operated as a sole proprietorship or by a partnership, not-for-profit corporation, education corporation, business corporation, a limited liability company or professional services organization 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.

c. "Early intervention program services" means early intervention services as defined in subdivision seven of section twenty-five hundred forty-one of the public health law that are provided under the early intervention program and authorized in an eligible child's individualized family services plan.

d. "Multi-disciplinary evaluation" for purposes of a special education school means a multi-disciplinary evaluation of a preschool child suspected of having a disability or a preschool child with a disability that is conducted pursuant to section forty-four hundred ten of this chapter or an evaluation of a school-age child suspected of having a disability or with a disability which is conducted by a child care institution that operates a special education school or the special education school operated by such institution pursuant to subdivision three of section four thousand two of this chapter or by an institution for the deaf or blind operating pursuant to article eighty-five of this chapter or an evaluation of a school-age child suspected of having a disability or with a disability that is authorized to be conducted by a special education school pursuant to any other provision of this chapter and the regulations of the commissioner for purposes of identification of the child as a child with a disability or the development of an individualized education program for the child.

e. "Multi-disciplinary evaluation" for purposes of the early intervention program means a professional, objective assessment conducted by appropriately qualified personnel in accordance with section twenty-five hundred forty-four of the public health law and its implementing regulations to determine a child's eligibility for early intervention program services.

f. "Related services" means related services as defined in paragraph g of subdivision two of section four thousand two, paragraph k of subdivision two of section forty-four hundred one, or paragraph j of

subdivision one of section forty-four hundred ten of this chapter provided to a child with a disability pursuant to such child's individualized education program.

2. Waiver. a. No special education school may employ individuals licensed 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, and no special education school may provide such an evaluation component or related services by contract with an individual licensed or otherwise authorized to practice pursuant to this article or with an entity authorized by law to provide such 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 thirteen.

b. No early intervention agency may employ or contract with individuals licensed pursuant to this article or with a not-for-profit corporation, education corporation, business corporation, limited liability company, or a professional services organization 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, 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 approved 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 thirteen. 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. The department may issue a waiver on or after July first, two thousand thirteen to an entity which was created before, on or after the effective date of this section if there is demonstration of need of the entity's services satisfactory to the department. The application for an initial waiver shall be accompanied by a fee of three hundred forty-five dollars. Where the applicant simultaneously applies for a waiver as a special education school and early intervention agency the total waiver fee shall be three hundred forty-five dollars.

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 to provide such services, 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 professional 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 or trustees 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 professional services will be provided by such school or agency; includes a statement that, unless otherwise authorized by law, the school or agency shall only provide services authorized under this section; includes a statement that only a licensed professional, a person otherwise authorized to provide such services, or a professional services entity authorized by law to provide such services shall provide such services as authorized under this section; and attests to the adequacy of the school's or agency's fiscal and financial resources to provide such services. Such application shall also include any other information related to the application as may be required by the department. A school or agency with an approved waiver may apply, on a form prescribed by the commissioner, to amend the waiver to add additional professional services.

e. Each officer, trustee and director of such school or agency shall provide an attestation regarding his or her good moral character as required pursuant to paragraph g of this subdivision. The commissioner shall be further authorized to promulgate rules or regulations relating to the standards of the waiver for special education schools and early intervention agencies pursuant to this section. Such regulations shall include standards relating to the school's or agency's ability to provide services, the school's or agency's maintenance of student or client and business records, the school's or agency's fiscal policies, and such other standards as may be prescribed by the commissioner.

f. The special education school or early intervention agency operating pursuant to a waiver shall display, at each site where services are provided to the public, a certificate of such waiver issued by the department pursuant to this section, which shall contain the name of the school or agency and the address of the site. Such schools or agencies shall obtain from the department additional certificates for each site

at which professional services are provided to the public. Each school or agency shall be required to re-apply for a waiver every three years. An early intervention agency's waiver shall not be renewed unless the agency is approved to provide early intervention program multi-disciplinary evaluations, service coordination or early intervention program services in accordance with title two-A of article twenty-five of the public health law. Except as otherwise provided in subdivision four of this section, if any information supplied to the department regarding the school or agency shall change, the school or agency shall be required to provide such updated information to the department within sixty days.

g. All officers, trustees and directors of such schools or agencies shall be of good moral character. Schools or agencies operating pursuant to a waiver and their officers and directors shall be entitled to the same due process procedures as are provided to such individuals and professional services corporations. No waiver issued under this section shall be transferable or assignable; as such terms are defined in the regulations of the commissioner.

4. Renewal of waiver. A. All special education school and early intervention agency waivers shall be renewed on dates set by the department. The triennial waiver fee shall be two hundred sixty dollars or a pro-rated portion thereof as determined by the department. An early intervention agency's waiver shall not be renewed unless the agency is approved to provide early intervention program multi-disciplinary evaluations, service coordination nor early intervention program services in accordance with title two-A of article twenty-five of the public health law.

5. Change of location. In the event that a change in the location of the chief administrative offices of a special education school or early intervention agency is contemplated, the owner shall notify the office of professions of the department of the change of location at least thirty days prior to relocation.

6. Professional practice. a. Notwithstanding any other provision of

law to the contrary, a special education school operating under a waiver 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 not-for-profit corporation, education corporation, business corporation, limited liability company or professional services organization 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 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 not-for-profit corporation, education corporation, business corporation, limited liability company or professional services organization 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 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.

7. 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 of the waiver 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 termination of the early intervention agency pursuant to title two-A of article twenty-five of the public health law and implementing regulations by the commissioner pursuant to subdivision eighteen of section forty-four hundred three of this chapter, the school's or early intervention agency's waiver pursuant to this section shall be deemed revoked and annulled.