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To: District Superintendents
Superintendents of Public Schools
Superintendents of State-Operated and State-Supported Schools
Superintendents of Special Act School Districts
Principals of Public, Nonpublic and Charter Schools
New York City Department of Education
Impartial Hearing Officers
Special Education Parent Centers
Regional Special Education Technical Assistance Support Centers
Commissioner's Advisory Panel for Special Education Services
Organizations, Parents and Individuals Concerned with Special Education

From: James P. DeLorenzo

Subject: Variance Procedures to Temporarily Exceed the Maximum Number of
Students with Disabilities in an Integrated Co-teaching Services Class

The purpose of this memorandum is to provide the procedures that a school district must follow in order to obtain a variance to temporarily exceed 12 students with disabilities in a class where integrated co-teaching services are provided. "Integrated co-teaching services" as used in the Regulations of the Commissioner of Education means a general education teacher and a special education teacher jointly providing instruction to a class that includes both students with and students without disabilities to meet the diverse learning needs of all students in a class.

The regulatory maximum number of students with disabilities receiving integrated co-teaching services in a class is 12 students. The total of 12 students includes any student with a disability in that class, regardless of whether all of the students are recommended for integrated co-teaching services. For example, if two students with disabilities in a class are recommended for resource room and related services and ten are recommended for integrated co-teaching services, there are 12 students with disabilities in that classroom.

Effective December 8, 2010, section 200.6(g)(1)ETeW*nBT/F1 12 Tfn-lo/F1 12 Tfn-lo/F1 12

students with disabilities in an integrated co-teaching services class: (1) a variance by notification to increase the maximum number of students with disabilities to 13; and (2) a variance request for Commissioner's prior approval to increase the number of students with disabilities to not more than a total of 14. The amended regulations relating to these two processes are as follows:

① Variance by notification. A board of education or trustees of a school district may submit written notice to the commissioner to temporarily add one additional student with a disability to an integrated co-teaching class for the remainder of the school year, provided that at the start of classes in September of the current school year it is in compliance with the standards specified in this paragraph. Written notice to the commissioner shall be submitted on a form prescribed by the commissioner and shall sufficiently demonstrate educational justification and consistency with providing an appropriate education for all children affected.

② Variance with Commissioner approval. If the school district has enrolled one student with a disability beyond the maximum 12 students with disabilities in an integrated co-teaching services class pursuant to the procedures established in subparagraph (i) of this paragraph, and it determines there is a need to temporarily add one additional student

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