



THE STATE EDUCATION DEPARTMENT

June 2004

TO: District Superintendents
Presidents of Boards of Education
Superintendents of Schools
Organizations, Parents and Individuals Concerned with Special Education
Superintendents of State-Operated and State-Supported Schools
Nonpublic School Administrators and Educators
State and Local Teacher Associations
New York City Board of Education
Executive Directors of Approved Private Schools
Directors of Special Education
Chairpersons of Committees on Special Education
Chairpersons of Committees on Preschool Special Education
Directors of Pupil Personnel Services
Directors of Approved Preschool Programs and Preschool Educators
Municipality Preschool Special Education Coordinators
Early Childhood Direction Centers
Colleges with Special Education Teacher Training
Commissioner's Advisory Panel for Special Education Services
Impartial Hearing Officers
SETRC Project Directors and Profe

and which services require that the provider be fully licensed as a speech-language pathologist (SLP) pursuant to Article 159 of the Education Law. This clarification is intended to supplement previous policy memoranda issued by the State Education Department in July and November of 1995 related to this matter, and to respond to recent inquiries received by the Department. Copies of the July and November 1995 memoranda are available at [_____](#)

Section 8202 of the Education Law requires that all persons who practice speech-language pathology be licensed as speech-language pathologists or be otherwise authorized to practice under Article 159. Section 8207(2) provides an exemption that would enable those who are employed by a government or in a school to practice without a license. That section states that the licensure requirement shall not be construed as prohibiting:

Any person employed by the federal, state or local government or by a public or non-public elementary or secondary school or an institution of higher learning from performing the duties of a speech-language pathologist, an audiologist, a teacher of the speech and hearing handicapped, or a teacher of the deaf in the course of such employment.

The central issues addressed below respond to recent inquiries from the field, and are provided in a question and answer format, similar to the Department's November 1995 memorandum.

Yes, under certain circumstances. The intent of the §8207 exemption, as it applies to schools, supports an interpretation that a TSHH who is *employed by* an approved §4410 program may be exempt from licensure under certain conditions. Accordingly, the Department reaffirms the guidance provided in the July and November memoranda on this subject that a TSHH, employed by a center-based §4410 provider who is providing services *in the course of such employment*, is exempt from the licensure requirement set out in Article 159 of the Education Law, but only under the following conditions:

- a) To be a school as intended by the §8207 exemption, the approved §4410 program must be a center-based program, in that it must operate special education classes and/or special education classes in an integrated setting.

- b) The speech-language pathology services must be provided in the course of such employment in the center-based §4410 program. Therefore, to meet the §8207 conditions of an “employee of a school” who provides services “in the course of such employment,” the approved §4410 provider may only employ the TSHH to provide speech-language pathology services to student

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site,” with attendant oversight and supervision by those designated within the school system. Accordingly, there is an expectation that employees of §4410 programs eligible for the §8207 exemption will have similar degrees of training, supervision, and oversight.

social work, assistive technology services, other appropriate



