

7722--A

I N   S E N A T E

June 15, 2012

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Introduced by Sens. FLANAGAN, SKELOS -- read twice and ordered printed, and when printed to be committed to the Committee on Rules -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to determinations of appropriate educational programs for certain students

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

1     Section 1. Subclause (i) of clause (b) of subparagraph 3 of paragraph  
2     b of subdivision 1 of section 4402 of the education law, as amended by  
3     chapter 378 of the laws of 2007, is amended to read as follows:  
4     (i) Make recommendations based upon a written evaluation setting forth  
5     the reasons for the recommendations, to the child's parent or person in  
6     parental relation and board of education or trustees as to appropriate  
7     educational programs and placement in accordance with the provisions of  
8     subdivision six of section forty-four hundred one-a of this article, and  
9     as to the advisability of continuation, modification, or termination of  
10    special class or program placements which evaluation shall be furnished  
11    to the child's parent or person in parental relation together with the  
12    recommendations provided, however that the committee may recommend a  
13    placement in a school which uses psychotropic drugs only if such school  
14    has a written policy pertaining to such use that is consistent with  
15    subdivision four-a of section thirty-two hundred eight of this chapter  
16    and that the parent or person in parental relation is given such written  
17    policy at the time such recommendation is made. THE DETERMINATION OF  
18    APPROPRIATE EDUCATIONAL PROGRAMS AND PLACEMENTS SHALL INCLUDE, UPON A  
19    REQUEST BY A CHILD'S PARENT OR PERSON IN PARENTAL RELATION, A DETERMI-  
20    NATION OF THE CHILD'S ABILITY TO LEARN IN ANY GIVEN EDUCATIONAL ENVIRON-  
21    MENT. SUCH DETERMINATION SHALL TAKE INTO ACCOUNT ANY POSSIBLE EDUCA-  
22    TIONAL IMPACT DIFFERENCES BETWEEN THE SCHOOL ENVIRONMENT AND THE CHILD'S  
23    HOME ENVIRONMENT AND FAMILY BACKGROUND MAY HAVE ON THE CHILD'S ABILITY  
24    TO RECEIVE A FREE APPROPRIATE PUBLIC EDUCATION. SUCH DETERMINATION SHALL  
25    INCLUDE DOCUMENTATION AS TO WHETHER THESE FACTORS WOULD AFFECT THE  
26    CHILD'S ABILITY TO LEARN. If such recommendation is not acceptable to

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

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1 the parent or person in parental relation, such parent or person in  
2 parental relation may appeal such recommendation as provided for in  
3 section forty-four hundred four of this [chapter] ARTICLE. PROVIDED  
4 FURTHER THAT PURSUANT TO SECTION FORTY-FOUR HUNDRED FIVE OF THIS ARTICLE  
5 A SCHOOL DISTRICT SHALL GRANT OR DENY A PARENT'S REQUEST FOR TUITION  
6 REIMBURSEMENT WITHIN NINETY DAYS FROM THE DATE SUCH REQUEST IS RECEIVED.  
7 IF THE SCHOOL DISTRICT GRANTS THE REQUEST FOR TUITION REIMBURSEMENT,  
8 SUCH TUITION REIMBURSEMENT MUST BE PROVIDED WITHIN THIRTY DAYS FROM THE  
9 DATE THE REQUEST WAS GRANTED.

10 S 2. Paragraph a of subdivision 1 of section 4404 of the education law  
11 is amended by adding a new closing paragraph to read as follows:

12 NOTWITHSTANDING ANY OTHER PROVISION OF LAW, RULE OR REGULATION TO THE  
13 CONTRARY, UPON A WRITTEN SETTLEMENT AGREEMENT BETWEEN A CHILD'S PARENT  
14 OR PERSON IN PARENTAL RELATION AND THE BOARD OF EDUCATION OR TRUSTEES OF  
15 A SCHOOL DISTRICT OR A STATE AGENCY, OR THE DECISION OF AN IMPARTIAL  
16 HEARING OFFICER, STATE REVIEW OFFICER OR A COURT FINDING THAT A UNILAT-  
17 ERAL PARENTAL PLACEMENT WAS APPROPRIATE AND THAT TUITION REIMBURSEMENT  
18 SHOULD BE GRANTED FOR SUCH UNILATERAL PLACEMENT, SUCH TUITION REIMBURSE-  
19 MENT SHALL CONTINUE UNTIL THE COMMITTEE ON SPECIAL EDUCATION AMENDS OR  
20 MODIFIES THE CHILD'S INDIVIDUALIZED EDUCATION PROGRAM.

21 S 3. This act shall take effect immediately; provided, however, the  
22 amendments to clause (b) of subparagraph 3 of paragraph b of subdivision  
23 1 of section 4402 of the education law made by section one of this act  
24 shall not affect the expiration of such clause and shall be deemed to  
25 expire therewith; provided, further, however, that the amendments made  
26 to subdivision 1 of section 4404 of the education law made by section  
27 two of this act shall not affect the expiration of such subdivision and  
28 shall be deemed to expire therewith.