

6688

I N S E N A T E

March 9, 2012

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 establishing Earth day; to amend the education law, in relation to mandate relief for school districts and certain other educational entities; to amend the education law, in relation to removing references to subcommittees on special education; to amend the education law, in relation to the provision of special education programs and services to students parentally placed in non-public schools through dual enrollment in the public schools; to amend the education law, in relation to eliminating the requirement that the commissioner of education make appointments to the state-supported schools; to amend the education law, in relation to the committee on special education membership requirements; to amend the education law, in relation to eliminating the requirement for written parental consent prior to initial placement of a student with a disability in a July/August program; to amend the education law, in relation to transportation of students with disabilities parentally placed in a private school; to amend the education law, in relation to establishing that all school districts are approved evaluators of preschool students suspected of having a disability; to amend the education law, in relation to the statute of limitations for special education due process hearings; to amend the education law relating to committee on preschool special education membership; to amend the education law, in relation to the selection of a preschool evaluator; to amend the education law, in relation to referrals to state adult service agencies for certain students with disabilities who have reached the age of 18; to amend the general municipal law, in relation to school districts or board of cooperative educational services option to purchase goods and services; to amend the general municipal law, in relation to authorizing award of contracts for goods or services on the basis of better value; to amend the environmental conservation law, in relation to state smart growth public infrastructure criteria; to amend the vehicle and traffic law, in relation to school omnibus signs complying with federal motor vehicle safety standards; to repeal paragraph d of subdivision 4 of section 3641 of the education law relating to special apportionments

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

LBD14285-01-2

to school districts; to repeal subdivision 15 of section 353 of the executive law relating to the duties of the director of the division of veterans' affairs; to repeal subdivision 17 of section 1950 of the education law relating to board of cooperative educational services special education space plans; to repeal clause (h) of subparagraph 3 of paragraph b of subdivision 1 of section 4402 of the education law relating to reports on certain children of Vietnam veterans; to repeal clause (d) of subparagraph 1 of paragraph b of subdivision 1 of section 4402 of the education law relating to subcommittees on special education; to repeal clause (d-2) of subparagraph 3 of paragraph b of subdivision 1 of section 4402 of the education law relating to the requirement that boards of education develop plans and policies for appropriate declassification of students with disabilities; and to repeal subdivision 18 of section 4403 of the education law relating to commissioner approval of certain early intervention programs

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

1 Section 1. Section 810 of the education law, as amended by chapter 616
2 of the laws of 1969 and subdivision 1 as amended by chapter 96 of the
3 laws of 1978, is amended to read as follows:

4 S 810. [Conservation] EARTH day. [1. The last Friday in April each
5 year is hereby made and declared to be known as Conservation day, and
6 observed in accordance with the provisions of this chapter, except that
7 for the year nineteen hundred seventy-eight, Conservation day shall be
8 May third.

9 2. It shall be the duty of the authorities of every public school in
10 this state to assemble the pupils in their charge on that day in the
11 school building, or elsewhere, as they may deem proper, and to provide
12 for and conduct (1) such exercises as shall tend to encourage the plant-
13 ing, protection and preservation of trees and shrubs, and an acquaint-
14 ance with the best methods to be adopted to accomplish such results, and
15 (2) such lectures, pictures or tours, as shall tend to increase the
16 interest and knowledge of such pupils in the fish and wild life, soil
17 and water of the state.

18 3. The commissioner of education may prescribe from time to time a
19 course of exercises and instruction in the subjects hereinbefore
20 mentioned, which shall be adopted and observed by the public school
21 authorities on Conservation day. Upon receipt of copies of such course
22 sufficient in number to supply all the schools under their supervision,
23 the school authorities aforesaid shall promptly provide each of the
24 schools under their charge with a copy, and cause it to be observed]
25 ANNUALLY, IT SHALL BE THE DUTY OF THE AUTHORITIES OF EVERY PUBLIC SCHOOL
26 IN THIS STATE TO OBSERVE EARTH DAY AS THEY MAY DEEM PROPER AND TO
27 ENCOURAGE INSTRUCTION ON THE EARTH'S NATURAL ENVIRONMENT AS APPROPRIATE.

28 S 2. Subdivision 4 of section 1950 of the education law is amended by
29 adding a new paragraph oo to read as follows:

30 OO. AT THE REQUEST OF ONE OR MORE SCHOOL DISTRICTS, CONTRACT FOR THE
31 PROCUREMENT OF TELECOMMUNICATIONS EQUIPMENT ON BEHALF OF SUCH SCHOOL
32 DISTRICTS, SUBJECT TO THE REQUIREMENTS OF SECTION ONE HUNDRED THREE AND
33 SECTION ONE HUNDRED FOUR-B OF THE GENERAL MUNICIPAL LAW, PROVIDED THAT
34 THE COSTS OF SUCH CONTRACTS SHALL BE ELIGIBLE FOR AID PURSUANT TO SUBDI-
35 VISION FIVE OF THIS SECTION IF APPROVED BY THE COMMISSIONER AS AN AIDA-

1 BLE SHARED SERVICE UPON REQUEST OF TWO OR MORE COMPONENT SCHOOL
2 DISTRICTS.

3 S 3. Section 3035 of the education law is amended by adding a new
4 subdivision 3-b to read as follows:

5 3-B. UPON REQUEST FROM A PROSPECTIVE EMPLOYEE WHO HAS BEEN CLEARED BY
6 THE COMMISSIONER OF MOTOR VEHICLES PURSUANT TO SECTION FIVE HUNDRED
7 NINE-CC OR SECTION TWELVE HUNDRED TWENTY-NINE-D OF THE VEHICLE AND TRAF-
8 FIC LAW, THE DEPARTMENT OF MOTOR VEHICLES SHALL BE AUTHORIZED TO FORWARD
9 A COPY OF SUCH INDIVIDUAL'S CRIMINAL HISTORY RECORD AND SUCH INDIVID-
10 UAL'S FINGERPRINTS TO THE COMMISSIONER FOR PURPOSES OF CONDUCTING A
11 CRIMINAL HISTORY RECORD CHECK PURSUANT TO THIS SECTION. FURTHERMORE,
12 UPON NOTIFICATION THAT SUCH PROSPECTIVE EMPLOYEE HAS BEEN CLEARED FOR
13 EMPLOYMENT BY THE COMMISSIONER PURSUANT TO THIS SECTION, THE DIVISION OF
14 CRIMINAL JUSTICE SERVICES SHALL HAVE THE AUTHORITY TO PROVIDE SUBSEQUENT
15 CRIMINAL HISTORY NOTIFICATIONS DIRECTLY TO THE COMMISSIONER.

16 S 4. Paragraph d of subdivision 4 of section 3641 of the education law
17 is REPEALED.

18 S 5. Paragraph a of subdivision 14 of section 305 of the education
19 law, as amended by section 1 of chapter 273 of the laws of 1999, is
20 amended to read as follows:

21 a. All contracts for the transportation of school children, all
22 contracts to maintain school buses owned or leased by a school district
23 that are used for the transportation of school children, all contracts
24 for mobile instructional units, and all contracts to provide, maintain
25 and operate cafeteria or restaurant service by a private food service
26 management company shall be subject to the approval of the commissioner,
27 who may disapprove a proposed contract if, in his opinion, the best
28 interests of the district will be promoted thereby. Except as provided
29 in paragraph e of this subdivision, all such contracts involving an
30 annual expenditure in excess of the amount specified for purchase
31 contracts in the bidding requirements of the general municipal law shall
32 be awarded to the lowest responsible bidder, which responsibility shall
33 be determined by the board of education or the trustee of a district,
34 with power hereby vested in the commissioner to reject any or all bids
35 if, in his opinion, the best interests of the district will be promoted
36 thereby and, upon such rejection of all bids, the commissioner shall
37 order the board of education or trustee of the district to seek, obtain
38 and consider new proposals. All proposals for such transportation, main-
39 tenance, mobile instructional units, or cafeteria and restaurant service
40 shall be in such form as the commissioner may prescribe. Advertisement
41 for bids shall be published in a newspaper or newspapers designated by
42 the board of education or trustee of the district having general circu-
43 lation within the district for such purpose OR IN THE STATE'S PROCURE-
44 MENT OPPORTUNITIES NEWSLETTER IN ACCORDANCE WITH ARTICLE FOUR-C OF THE
45 ECONOMIC DEVELOPMENT LAW. Such advertisement shall contain a statement
46 of the time when and place where all bids received pursuant to such
47 advertisement will be publicly opened and read either by the school
48 authorities or by a person or persons designated by them. All bids
49 received shall be publicly opened and read at the time and place so
50 specified. At least five days shall elapse between the first publication
51 of such advertisement and the date so specified for the opening and
52 reading of bids. The requirement for competitive bidding shall not apply
53 to an award of a contract for the transportation of pupils or a contract
54 for mobile instructional units OR THE PROVISION, MAINTENANCE AND OPERA-
55 TION OF CAFETERIA OR RESTAURANT SERVICE, if such award is based on an
56 evaluation of proposals in response to a request for proposals pursuant

1 to paragraph e of this subdivision. The requirement for competitive
2 bidding shall not apply to annual, biennial, or triennial extensions of
3 a contract nor shall the requirement for competitive bidding apply to
4 quadrennial or quinquennial year extensions of a contract involving
5 transportation of pupils, maintenance of school buses or mobile instruc-
6 tional units secured either through competitive bidding or through eval-
7 uation of proposals in response to a request for proposals pursuant to
8 paragraph e of this subdivision, when such extensions (1) are made by
9 the board of education or the trustee of a district, under rules and
10 regulations prescribed by the commissioner, and, (2) do not extend the
11 original contract period beyond five years from the date cafeteria and
12 restaurant service commenced thereunder and in the case of contracts for
13 the transportation of pupils, for the maintenance of school buses or for
14 mobile instructional units, that such contracts may be extended, except
15 that power is hereby vested in the commissioner, in addition to his
16 existing statutory authority to approve or disapprove transportation or
17 maintenance contracts, (i) to reject any extension of a contract beyond
18 the initial term thereof if he finds that amount to be paid by the
19 district to the contractor in any year of such proposed extension fails
20 to reflect any decrease in the regional consumer price index for the
21 N.Y., N.Y.-Northeastern, N.J. area, based upon the index for all urban
22 consumers (CPI-U) during the preceding twelve month period; and (ii) to
23 reject any extension of a contract after ten years from the date trans-
24 portation or maintenance service commenced thereunder, or mobile
25 instructional units were first provided, if in his opinion, the best
26 interests of the district will be promoted thereby. Upon such rejection
27 of any proposed extension, the commissioner may order the board of
28 education or trustee of the district to seek, obtain and consider bids
29 pursuant to the provisions of this section. The board of education or
30 the trustee of a school district electing to extend a contract as
31 provided herein, may, in its discretion, increase the amount to be paid
32 in each year of the contract extension by an amount not to exceed the
33 regional consumer price index increase for the N.Y., N.Y.-Northeastern,
34 N.J. area, based upon the index for all urban consumers (CPI-U), during
35 the preceding twelve month period, provided it has been satisfactorily
36 established by the contractor that there has been at least an equivalent
37 increase in the amount of his cost of operation, during the period of
38 the contract.

39 S 5-a. Paragraph a of subdivision 14 of section 305 of the education
40 law, as amended by section 2 of chapter 273 of the laws of 1999, is
41 amended to read as follows:

42 a. All contracts for the transportation of school children, all
43 contracts to maintain school buses owned or leased by a school district
44 that are used for the transportation of school children, all contracts
45 for mobile instructional units, and all contracts to provide, maintain
46 and operate cafeteria or restaurant service by a private food service
47 management company shall be subject to the approval of the commissioner,
48 who may disapprove a proposed contract if, in his opinion, the best
49 interests of the district will be promoted thereby. All such contracts
50 involving an annual expenditure in excess of the amount specified for
51 purchase contracts in the bidding requirements of the general municipal
52 law shall be awarded to the lowest responsible bidder, which responsi-
53 bility shall be determined by the board of education or the trustee of a
54 district, with power hereby vested in the commissioner to reject any or
55 all bids if, in his opinion, the best interests of the district will be
56 promoted thereby and, upon such rejection of all bids, the commissioner

1 shall order the board of education or trustee of the district to seek,
2 obtain and consider new proposals. All proposals for such transporta-
3 tion, maintenance, mobile instructional units, or cafeteria and restau-
4 rant service shall be in such form as the commissioner may prescribe.
5 Advertisement for bids shall be published in a newspaper or newspapers
6 designated by the board of education or trustee of the district having
7 general circulation within the district for such purpose OR IN THE
8 STATE'S PROCUREMENT OPPORTUNITIES NEWSLETTER IN ACCORDANCE WITH ARTICLE
9 FOUR-C OF THE ECONOMIC DEVELOPMENT LAW. Such advertisement shall
10 contain a statement of the time when and place where all bids received
11 pursuant to such advertisement will be publicly opened and read either
12 by the school authorities or by a person or persons designated by them.
13 All bids received shall be publicly opened and read at the time and
14 place so specified. At least five days shall elapse between the first
15 publication of such advertisement and the date so specified for the
16 opening and reading of bids. The requirement for competitive bidding
17 shall not apply to annual, biennial, or triennial extensions of a
18 contract nor shall the requirement for competitive bidding apply to
19 quadrennial or quinquennial year extensions of a contract involving
20 transportation of pupils, maintenance of school buses or mobile instruc-
21 tional units OR THE PROVISION, MAINTENANCE AND OPERATION OF CAFETERIA OR
22 RESTAURANT SERVICE secured through competitive bidding when such exten-
23 sions (1) are made by the board of education or the trustee of a
24 district, under rules and regulations prescribed by the commissioner,
25 and, (2) do not extend the original contract period beyond five years
26 from the date cafeteria and restaurant service commenced thereunder and
27 in the case of contracts for the transportation of pupils, for the main-
28 tenance of school buses or for mobile instructional units, that such
29 contracts may be extended, except that power is hereby vested in the
30 commissioner, in addition to his existing statutory authority to approve
31 or disapprove transportation or maintenance contracts, (i) to reject any
32 extension of a contract beyond the initial term thereof if he finds that
33 amount to be paid by the district to the contractor in any year of such
34 proposed extension fails to reflect any decrease in the regional consum-
35 er price index for the N.Y., N.Y.-Northeastern, N.J. area, based upon
36 the index for all urban consumers (CPI-U) during the preceding twelve
37 month period; and (ii) to reject any extension of a contract after ten
38 years from the date transportation or maintenance service commenced
39 thereunder, or mobile instructional units were first provided, if in his
40 opinion, the best interests of the district will be promoted thereby.
41 Upon such rejection of any proposed extension, the commissioner may
42 order the board of education or trustee of the district to seek, obtain
43 and consider bids pursuant to the provisions of this section. The board
44 of education or the trustee of a school district electing to extend a
45 contract as provided herein, may, in its discretion, increase the amount
46 to be paid in each year of the contract extension by an amount not to
47 exceed the regional consumer price index increase for the N.Y.,
48 N.Y.-Northeastern, N.J. area, based upon the index for all urban consum-
49 ers (CPI-U), during the preceding twelve month period, provided it has
50 been satisfactorily established by the contractor that there has been at
51 least an equivalent increase in the amount of his cost of operation,
52 during the period of the contract.

53 S 6. Paragraph e of subdivision 14 of section 305 of the education
54 law, as amended by chapter 464 of the laws of 1997, is amended to read
55 as follows:

1 e. Notwithstanding the provisions of any general, special or local law
2 or charter, a board of education or a trustee of a district, pursuant to
3 rules and regulations promulgated by the commissioner, may award a
4 contract for the transportation of pupils or a contract for mobile
5 instructional units OR FOR THE PROVISION, MAINTENANCE AND OPERATION OF
6 CAFETERIA OR RESTAURANT SERVICE BY A PRIVATE FOOD SERVICE MANAGEMENT
7 COMPANY involving an annual expenditure in excess of the amount speci-
8 fied for purchase contracts in the bidding requirements of the general
9 municipal law in compliance with the provisions of paragraph a of this
10 subdivision or subsequent to an evaluation of proposals submitted in
11 response to a request for proposals prepared by or for the board of
12 education or trustee of a district. A CONTRACT AWARDED THROUGH A REQUEST
13 FOR PROPOSALS SHALL BE AWARDED BASED ON BEST VALUE IN ACCORDANCE WITH
14 SUBDIVISION ONE-C OF SECTION ONE HUNDRED THREE OF THE GENERAL MUNICIPAL
15 LAW. The commissioner, in addition to his existing statutory authority
16 to approve or disapprove transportation contracts, may reject any award
17 of a transportation contract or a contract for mobile instructional
18 units that is based on an evaluation of proposals submitted in response
19 to a request for proposals if he finds that (1) the contractor is not
20 the most responsive to the request for proposals, or (2) that the best
21 interests of the district will be promoted thereby.

22 S 7. Subdivision 14 of section 305 of the education law is amended by
23 adding a new paragraph g to read as follows:

24 G. NOTWITHSTANDING THE PROVISIONS OF THIS SUBDIVISION, SECTION ONE
25 HUNDRED THREE OF THE GENERAL MUNICIPAL LAW, OR ANY OTHER PROVISION OF
26 LAW TO THE CONTRARY, THE BOARD OF EDUCATION SHALL BE AUTHORIZED TO ENTER
27 INTO A PIGGYBACK CONTRACT WITH ANOTHER SCHOOL DISTRICT THAT TRANSPORTS
28 STUDENTS PURSUANT TO A CONTRACT WITH A PRIVATE TRANSPORTATION CONTRAC-
29 TOR, PROVIDED THAT THE BOARD FINDS THAT THE CONTRACT COST IS APPROPRIATE
30 AND ENTRY INTO A PIGGYBACK CONTRACT WILL RESULT IN A COST SAVINGS TO THE
31 SCHOOL DISTRICT. FOR PURPOSES OF THIS PARAGRAPH, A "PIGGYBACK CONTRACT"
32 MEANS A CONTRACT FOR THE TRANSPORTATION OF STUDENTS THAT: (I) PROVIDES
33 TRANSPORTATION TO A LOCATION OUTSIDE THE STUDENTS' SCHOOL DISTRICT OF
34 RESIDENCE TO WHICH ANOTHER SCHOOL DISTRICT IS ALREADY PROVIDING TRANS-
35 PORTATION TO ITS OWN STUDENTS THROUGH AN EXISTING CONTRACT WITH A
36 PRIVATE TRANSPORTATION CONTRACTOR, OTHER THAN A COOPERATIVELY BID
37 CONTRACT; (II) IS ENTERED INTO BY THE PRIVATE TRANSPORTATION CONTRACTOR
38 AND EACH SCHOOL DISTRICT INVOLVED; AND (III) PROVIDES FOR TRANSPORTATION
39 IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF SUCH EXISTING TRANSPORTA-
40 TION CONTRACT.

41 S 8. Subdivision 1-b of section 103 of the general municipal law, as
42 added by section 4 of subpart A of part C of chapter 97 of the laws of
43 2011, is amended read as follows:

44 1-b. A political subdivision or any district therein shall have the
45 option of purchasing information technology and telecommunications hard-
46 ware, software and professional services through cooperative purchasing
47 permissible pursuant to federal general services administration informa-
48 tion technology schedule seventy or any successor schedule. A political
49 subdivision or any district therein that purchases through general
50 services administration schedule seventy, information technology and
51 consolidated schedule contracts shall comply with federal schedule
52 ordering procedures as provided in federal acquisition regulation
53 8.405-1 or 8.405-2 or successor regulations, whichever is applicable.
54 Adherence to such procedures shall constitute compliance with the
55 competitive bidding requirements under this section. IN ADDITION, A
56 SCHOOL DISTRICT OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES SHALL HAVE

1 THE OPTION OF PURCHASING OTHER GOODS OR SERVICES THROUGH COOPERATIVE
2 PURCHASING PERMISSIBLE PURSUANT TO A GENERAL SERVICES ADMINISTRATION
3 CONTRACT. A SCHOOL DISTRICT OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES
4 THAT PURCHASES OTHER SERVICES THROUGH GENERAL SERVICE ADMINISTRATION
5 CONTRACTS SHALL COMPLY WITH THE APPLICABLE FEDERAL SCHEDULE ORDERING
6 PROCEDURES AS PROVIDED IN THE FEDERAL ACQUISITION REGULATIONS AS APPLI-
7 CABLE.

8 S 9. Section 103 of the general municipal law is amended by adding a
9 new subdivision 1-c to read as follows:

10 1-C. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION TO THE
11 CONTRARY, THE TRUSTEES OR BOARD OF EDUCATION OF A SCHOOL DISTRICT OR A
12 BOARD OF COOPERATIVE EDUCATIONAL SERVICES MAY DETERMINE THAT IT IS IN
13 THE BEST INTEREST OF THE SCHOOL DISTRICT OR BOARD OF COOPERATIVE EDUCA-
14 TIONAL SERVICES TO ADOPT A POLICY AUTHORIZING THE AWARD OF CONTRACTS FOR
15 SERVICES ON THE BASIS OF BEST VALUE AS DEFINED IN SECTION ONE HUNDRED
16 SIXTY-THREE OF THE STATE FINANCE LAW TO RESPONSIVE AND RESPONSIBLE
17 OFFERS. SUCH A CONTRACT FOR SERVICES MAY BE AWARDED ON THE BASIS OF BEST
18 VALUE PROVIDED THAT THE CONTRACTING PROCESS AND AWARD SHALL COMPLY WITH
19 THE GUIDELINES ESTABLISHED UNDER SECTION ONE HUNDRED SIXTY-THREE OF THE
20 STATE FINANCE LAW BY THE STATE PROCUREMENT COUNCIL. ANY PROCUREMENT
21 MADE UNDER THIS SUBDIVISION SHALL BE APPROVED BY THE TRUSTEES OR BOARD
22 OF EDUCATION OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES, AS APPLICA-
23 BLE. THE PROVISIONS OF THIS SUBDIVISION SHALL APPLY TO CONTRACTS
24 SUBJECT TO THE PROVISIONS OF SUBDIVISION FOURTEEN OF SECTION THREE
25 HUNDRED FIVE OF THE EDUCATION LAW, TO THE EXTENT PROVIDED IN SUCH SUBDI-
26 VISION FOURTEEN OF SECTION THREE HUNDRED FIVE OF THE EDUCATION LAW.

27 S 10. Subdivision 2 of section 103 of the general municipal law, as
28 amended by section 4 of chapter 608 of the laws of 2011, is amended to
29 read as follows:

30 2. Advertisement for bids and offers shall be published in the offi-
31 cial newspaper or newspapers, if any, or otherwise in a newspaper or
32 newspapers designated for such purpose OR IN THE STATE'S PROCUREMENT
33 OPPORTUNITIES NEWSLETTER IN ACCORDANCE WITH ARTICLE FOUR-C OF THE
34 ECONOMIC DEVELOPMENT LAW. Such advertisement shall contain a statement
35 of the time when and place where all bids received pursuant to such
36 notice will be publicly opened and read and where the identity of all
37 offerers will be publicly disclosed, and the designation of the receiv-
38 ing device if the political subdivision or district has authorized the
39 receipt of bids and offers in an electronic format. Such board or agency
40 may by resolution designate any officer or employee to open the bids and
41 offers at the time and place specified in the notice. Such designee
42 shall make a record of such bids and offers in such form and detail as
43 the board or agency shall prescribe and present the same at the next
44 regular or special meeting of such board or agency. All bids received
45 shall be publicly opened and read at the time and place so specified and
46 the identity of all offerers shall be publicly disclosed at the time and
47 place so specified. At least five days shall elapse between the first
48 publication of such advertisement and the date so specified for the
49 opening and reading of bids and offers.

50 S 10-a. Subdivision 2 of section 103 of the general municipal law, as
51 amended by section 5 of chapter 608 of the laws of 2011, is amended to
52 read as follows:

53 2. Advertisement for bids and offers shall be published in the offi-
54 cial newspaper or newspapers, if any, or otherwise in a newspaper or
55 newspapers designated for such purpose OR IN THE STATE'S PROCUREMENT
56 OPPORTUNITIES NEWSLETTER IN ACCORDANCE WITH ARTICLE FOUR-C OF THE

1 ECONOMIC DEVELOPMENT LAW. Such advertisement shall contain a statement
2 of the time when and place where all bids received pursuant to such
3 notice will be publicly opened and read and where the identity of all
4 offerers will be publicly disclosed. Such board or agency may by resol-
5 ution designate any officer or employee to open the bids and offers at
6 the time and place specified in the notice. Such designee shall make a
7 record of such bids and offers in such form and detail as the board or
8 agency shall prescribe and present the same at the next regular or
9 special meeting of such board or agency. All bids received shall be
10 publicly opened and read at the time and place so specified and the
11 identity of all offerers shall be publicly disclosed at the time and
12 place so specified. At least five days shall elapse between the first
13 publication of such advertisement and the date so specified for the
14 opening and reading of bids and offers.

15 S 11. Subdivision 1 of section 6-0107 of the environmental conserva-
16 tion law, as added by chapter 433 of the laws of 2010, is amended to
17 read as follows:

18 1. In addition to meeting other criteria and requirements of law
19 governing approval, development, financing and state aid for the
20 construction of new or expanded public infrastructure or the recon-
21 struction thereof, no state infrastructure agency shall approve, under-
22 take, support or finance a public infrastructure project, including
23 providing grants, awards, loans or assistance programs, unless, to the
24 extent practicable, it is consistent with the relevant criteria speci-
25 fied in subdivision two of this section. NOTWITHSTANDING THE PROVISIONS
26 OF THIS SUBDIVISION OR ANY OTHER PROVISION OF THIS ARTICLE TO THE
27 CONTRARY, PROJECTS FOR THE RECONSTRUCTION, RENOVATION, REPAIR OR
28 IMPROVEMENT OF EXISTING PUBLIC SCHOOL FACILITIES OR EXISTING LIBRARY
29 FACILITIES, AND PROJECTS FOR THE CONSTRUCTION OF NEW OR EXPANDED PUBLIC
30 SCHOOL OR LIBRARY FACILITIES IN CITIES HAVING A POPULATION OF ONE
31 HUNDRED TWENTY-FIVE THOUSAND INHABITANTS OR MORE, SHALL NOT BE DEEMED
32 PUBLIC INFRASTRUCTURE PROJECTS SUBJECT TO THE REQUIREMENTS OF THIS ARTI-
33 CLE.

34 S 12. Subparagraph 1 of paragraph (b) and paragraphs (c) and (d) of
35 subdivision 20 of section 375 of the vehicle and traffic law, subpara-
36 graph 1 of paragraph (b) as amended by chapter 242 of the laws of 1992,
37 paragraph (c) as amended by chapter 96 of the laws of 1973 and paragraph
38 (d) as amended by chapter 567 of the laws of 1985, are amended to read
39 as follows:

40 (1) In addition to such signal lamps, two signs shall be conspicuously
41 displayed on the exterior of every such omnibus designating it as a
42 school omnibus by the use of the words "SCHOOL BUS" which shall be
43 painted or otherwise inscribed thereon in black letters. Such letters
44 shall be of uniform size, at least eight inches in height, and each
45 stroke of each letter shall be not less than one inch in width. The
46 background of each such sign shall be painted [the color known as
47 "national school bus chrome"] ON A BACKGROUND OF RETRO REFLECTIVE
48 NATIONAL SCHOOL BUS YELLOW MATERIAL. THE MATERIAL SHALL BE THE SAME
49 QUALITY AND TYPE AS FEDERAL MOTOR VEHICLE SAFETY STANDARDS REQUIRES FOR
50 THE MARKING OF EMERGENCY EXITS. For each such omnibus having a seating
51 capacity in excess of fifteen children, such signs shall be securely
52 mounted on top of such vehicle, one of which shall be affixed on the
53 front and one on the rear thereof. For each such omnibus having a seat-
54 ing capacity of not more than fifteen children, such signs shall be
55 securely mounted on top of such vehicle, one of which shall face the

front and one of which shall face the rear thereof. Each such sign shall be visible and readable from a point at least two hundred feet distant.

(c) [In the event such vehicle is operated on a public highway during the period between one-half hour after sunset and one-half hour before sunrise, the signs required by paragraph (b) of this subdivision shall be illuminated as to be visible from a point at least five hundred feet distant.

(d)] Every such omnibus shall be equipped as provided in paragraphs (a) and (b) of this subdivision, [and such signs shall be displayed and illuminated in accordance with paragraphs (b) and (c) of this subdivision,] and such signal lamps shall be operated as provided in paragraph (a) of this subdivision at all times when such omnibus shall be engaged in transporting pupils to and from school or school activities or in transporting children to and from child care centers maintained for children of migrant farm and food processing laborers, or in transporting children to and from camp or camp activities or transporting children to and from religious services or instruction or transporting persons with disabilities on any such omnibus used by any state facility or not-for-profit agency licensed by the state.

S 13. Subdivision 15 of section 353 of the executive law is REPEALED.

S 14. The commissioner of education, in consultation with the office of the state comptroller, shall conduct a study of the feasibility and desirability of authorizing school districts and boards of cooperative educational services to enter national credit card contracts as a cost-saving measure, with appropriate safeguards. The commissioner shall submit a report to the board of regents, the governor and the legislature by no later than January fifteenth, two thousand thirteen, with recommendations on whether and under what conditions such credit card contracts should be authorized and identifying any legislative or regulatory changes that would be needed to authorize such credit card contracts.

S 15. Subdivision 17 of section 1950 of the education law is REPEALED.

S 16. Section 2215 of the education law is amended by adding a new subdivision 17 to read as follows:

17. TO DETERMINE THE ADEQUACY AND APPROPRIATENESS OF THE FACILITIES SPACE AVAILABLE TO HOUSE SPECIAL EDUCATION PROGRAMS IN THE GEOGRAPHIC AREA SERVED BY THE BOARD OF COOPERATIVE EDUCATIONAL SERVICES, CONSISTENT WITH THE LEAST RESTRICTIVE ENVIRONMENT REQUIREMENT AND TO ENSURE THE STABILITY AND CONTINUITY OF PROGRAM PLACEMENTS FOR STUDENTS WITH DISABILITIES, INCLUDING PROCEDURES THAT ENSURE THAT SPECIAL EDUCATION PROGRAMS AND SERVICES LOCATED IN APPROPRIATE FACILITIES WILL NOT BE RELOCATED WITHOUT ADEQUATE CONSIDERATION OF THE NEEDS OF PARTICIPATING STUDENTS WITH DISABILITIES.

S 17. Subparagraph 2 of paragraph (b) of subdivision 4 of section 2590-b of the education law, as amended by chapter 345 of the laws of 2009, is amended to read as follows:

(2) advise and comment on the process of establishing committees [and/or subcommittees] on special education in community school districts pursuant to section forty-four hundred two of this chapter;

S 18. Paragraph (a) of subdivision 4 of section 2853 of the education law, as amended by chapter 378 of the laws of 2007, is amended to read as follows:

(a) For purposes of sections seven hundred one, seven hundred eleven, seven hundred fifty-one and nine hundred twelve of this chapter, a charter school shall be deemed a nonpublic school in the school district within which the charter school is located. Special education programs

1 and services shall be provided to students with a disability attending a
2 charter school in accordance with the individualized education program
3 recommended by the committee [or subcommittee] on special education of
4 the student's school district of residence. The charter school may
5 arrange to have such services provided by such school district of resi-
6 dence or by the charter school directly or by contract with another
7 provider. Where the charter school arranges to have the school district
8 of residence provide such special education programs or services, such
9 school district shall provide services in the same manner as it serves
10 students with disabilities in other public schools in the school
11 district, including the provision of supplementary and related services
12 on site to the same extent to which it has a policy or practice of
13 providing such services on the site of such other public schools.

14 S 18-a. Paragraph (a) of subdivision 4 of section 2853 of the educa-
15 tion law, as added by chapter 4 of the laws of 1998, is amended to read
16 as follows:

17 (a) For purposes of sections seven hundred one, seven hundred eleven,
18 seven hundred fifty-one and nine hundred twelve of this chapter, a char-
19 ter school shall be deemed a nonpublic school in the school district
20 within which the charter school is located. Special education programs
21 and services shall be provided to students with a disability attending a
22 charter school in accordance with the individualized education program
23 recommended by the committee [or subcommittee] on special education of
24 the student's school district of residence. The charter school may
25 arrange to have such services provided by such school district of resi-
26 dence or by the charter school directly or by contract with another
27 provider.

28 S 19. Paragraph a of subdivision 1 and paragraph a and subparagraph 1
29 of paragraph b of subdivision 2 of section 3602-c of the education law,
30 paragraph a of subdivision 1 as amended by chapter 474 of the laws of
31 2004, paragraph a and subparagraph 1 of paragraph b of subdivision 2 as
32 amended by chapter 378 of the laws of 2007, are amended and a new para-
33 graph e is added to subdivision 2 to read as follows:

34 a. "Services" shall mean instruction in the areas of gifted pupils,
35 career education and education for students with disabilities, and coun-
36 seling, psychological and social work services related to such instruc-
37 tion provided during the regular school year for pupils enrolled in a
38 nonpublic school located in a school district, INCLUDING SPECIAL EDUCA-
39 TION PROGRAMS AND RELATED SERVICES AS DEFINED IN SUBDIVISION TWO OF
40 SECTION FORTY-FOUR HUNDRED ONE OF THIS CHAPTER OTHER THAN AN APPROVED
41 PRIVATE RESIDENTIAL OR NON-RESIDENTIAL SCHOOL FOR THE EDUCATION OF
42 STUDENTS WITH DISABILITIES, provided that such instruction is given to
43 pupils enrolled in the public schools of such district. SUCH TERM SHALL
44 ALSO INCLUDE EDUCATION FOR STUDENTS WITH DISABILITIES ENROLLED IN SUCH A
45 NONPUBLIC SCHOOL WHICH IS PROVIDED IN JULY AND AUGUST IN ACCORDANCE WITH
46 PARAGRAPH E OF SUBDIVISION TWO OF THIS SECTION.

47 a. Boards of education of all school districts of the state shall
48 furnish services to students who are residents of this state and who
49 attend nonpublic schools located in such school districts, upon the
50 written request of the parent or person in parental relation of any such
51 student. Such a request for career education or services to gifted
52 students shall be filed with the board of education of the school
53 district in which the parent or person in parental relation of the
54 student resides on or before the first day of June preceding the school
55 year for which the request is made. In the case of education for
56 students with disabilities, such a request shall be filed with the trus-

tees or board of education of the school district of location on or before the first of [June] APRIL preceding the school year for which the request is made[, or by July first, two thousand seven for the two thousand seven--two thousand eight school year only,] FOR THOSE STUDENTS FOR WHOM AN INDIVIDUALIZED EDUCATION SERVICE PROGRAM WAS DEVELOPED AND IMPLEMENTED PURSUANT TO THIS SECTION PRIOR TO SUCH DATE, AND ON OR BEFORE THE FIRST OF JUNE PRECEDING THE SCHOOL YEAR FOR WHICH THE REQUEST IS MADE FOR THOSE STUDENTS WHO WILL BE FIRST RECEIVING EDUCATION FOR STUDENTS WITH DISABILITIES PURSUANT TO THIS SECTION IN THE SCHOOL YEAR FOR WHICH THE REQUEST IS MADE OR FOR WHOM AN INDIVIDUALIZED EDUCATION SERVICE PROGRAM IS FIRST DEVELOPED AND IMPLEMENTED ON OR AFTER APRIL FIRST AND ON OR BEFORE JUNE FIRST; provided that where a student is first identified as a student with a disability after the first day of June preceding the school year for which the request is made, [or thirty days after the chapter of the laws of two thousand seven which amended this paragraph, takes effect where applicable, and prior to the first day of April of such current school year,] such request shall be submitted within thirty days after AN INDIVIDUALIZED EDUCATION SERVICE PROGRAM IS DEVELOPED FOR such student [is first identified]. [For students first identified after March first of the current school year, any such request for education for students with disabilities in the current school year that is submitted on or after April first of such current school year, shall be deemed a timely request for such services in the following school year.]

(1) For the purpose of obtaining education for students with disabilities, as defined in paragraph d of subdivision one of this section, such request shall be reviewed by the committee on special education of the school district of location, which shall develop an individualized education service program for the student based on the student's individual needs in the same manner and with the same contents as an individualized education program, EXCEPT AS OTHERWISE PROVIDED IN THIS SUBPARAGRAPH. The committee on special education shall assure that special education programs and services are made available to students with disabilities attending nonpublic schools located within the school district on an equitable basis, as compared to special education programs and services provided to other students with disabilities attending public or nonpublic schools located within the school district, EXCEPT THAT THERE SHALL BE NO ENTITLEMENT UNDER THIS SECTION TO THE PROVISION OF A SPECIAL CLASS OR INTEGRATED CO-TEACHING SERVICES, AS SUCH TERMS ARE DEFINED IN THE REGULATIONS OF THE COMMISSIONER, BY THE SCHOOL DISTRICT OF LOCATION FOR ALL OR PART OF THE SCHOOL DAY. Review of the recommendation of the committee on special education may be obtained by the parent or person in parental relation of the pupil pursuant to the provisions of section forty-four hundred four of this chapter; PROVIDED THAT A DUE PROCESS COMPLAINT, OTHER THAN A DUE PROCESS COMPLAINT RELATING TO CHILD FIND REQUIREMENTS BROUGHT PURSUANT TO PARAGRAPH C OF THIS SUBDIVISION, SUBMITTED ON OR AFTER SEPTEMBER FIRST, TWO THOUSAND TWELVE SHALL BE SUBMITTED TO MEDIATION PURSUANT TO SECTION FORTY-FOUR HUNDRED FOUR-A OF THIS CHAPTER AND AT LEAST ONE MEDIATION SESSION SHALL BE HELD PRIOR TO MAKING A REQUEST FOR AN IMPARTIAL HEARING IN ACCORDANCE WITH A TIMELINE PRESCRIBED BY THE COMMISSIONER.

E. A NONPUBLIC SCHOOL STUDENT WHOSE DISABILITY IS SEVERE ENOUGH TO EXHIBIT THE NEED FOR A STRUCTURED LEARNING ENVIRONMENT OF TWELVE MONTHS DURATION TO MAINTAIN DEVELOPMENTAL LEVELS SHALL BE ELIGIBLE TO RECEIVE SPECIAL EDUCATION PROGRAMS AND SERVICES IN JULY AND AUGUST IN ACCORDANCE WITH THE INDIVIDUALIZED EDUCATION SERVICE PROGRAM DEVELOPED BY THE

1 COMMITTEE ON SPECIAL EDUCATION OF THE SCHOOL DISTRICT OF LOCATION AND
2 THE PROVISIONS OF SECTION FORTY-FOUR HUNDRED EIGHT OF THIS CHAPTER.
3 PROVIDED, HOWEVER, THAT DURING A JULY/AUGUST SPECIAL EDUCATION PROGRAM,
4 A NONPUBLIC SCHOOL STUDENT SHALL NOT BE ENTITLED PURSUANT TO THIS
5 SECTION TO PLACEMENT IN A SPECIAL CLASS OR INTEGRATED CO-TEACHING
6 SERVICES, AS SUCH TERMS ARE DEFINED IN THE REGULATIONS OF THE COMMIS-
7 SIONER. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE
8 SCHOOL DISTRICT OF LOCATION SHALL BE ELIGIBLE FOR STATE AID FOR SUCH
9 SERVICES EXCLUSIVELY PURSUANT TO SECTION FORTY-FOUR HUNDRED EIGHT OF
10 THIS CHAPTER.

11 S 20. Subdivision 7 of section 3602-c of the education law, as amended
12 by chapter 378 of the laws of 2007, is amended to read as follows:

13 7. a. Boards of education of districts providing career education and
14 gifted education services to non-resident students shall be entitled to
15 recover tuition from the district of residence of such students in
16 accordance with a formula promulgated by the commissioner by regulation.

17 b. In the case of the education for students with disabilities who are
18 residents of New York, a school district of location providing services
19 to non-resident students shall be entitled to recover costs of services,
20 costs of evaluation, and costs of committee on special education admin-
21 istration directly from the district of residence of the student if
22 consent of the parent or person in parental relation is obtained to
23 release of personally identifiable information concerning their child.
24 If such consent is not obtained, the school district of location shall
25 submit to the commissioner, in a form prescribed by the commissioner, a
26 claim for costs of services, evaluation costs, and committee on special
27 education administrative costs that includes the address of the
28 student's permanent residence, including the school district of resi-
29 dence, and a certification by officials of the nonpublic school attended
30 by the student that such address is the address of record of such
31 student. Upon certification by the commissioner of the amount of such
32 claim, the state comptroller shall deduct such amount from any state
33 funds which become due to such school district of residence.

34 c. The amount charged by the school district of location for services,
35 evaluation[, eligible due process costs] and committee on special educa-
36 tion administrative costs shall not exceed the actual cost to the school
37 district of location, after deducting any costs paid with federal or
38 state funds. The commissioner shall adopt regulations prescribing a
39 dispute resolution mechanism that will be available to a school district
40 of residence where such district disagrees with the amount of tuition or
41 costs charged by the school district of location.

42 D. THE COMMISSIONER SHALL ESTABLISH REGIONAL RATE METHODOLOGIES FOR
43 COMPUTING REGIONAL RATES TO DETERMINE ACTUAL COSTS FOR EACH OF THE
44 FOLLOWING CATEGORIES OF COSTS: (I) COSTS OF SERVICES, (II) EVALUATIONS
45 AND (III) SPECIAL EDUCATION ADMINISTRATION. THE SCHOOL DISTRICT OF
46 LOCATION MAY ELECT TO USE ANY SUCH REGIONAL RATE METHODOLOGIES IN EFFECT
47 FOR THE CURRENT SCHOOL YEAR FOR ALL NONRESIDENT STUDENTS RECEIVING
48 SERVICES PURSUANT TO SUBDIVISION TWO OF THIS SECTION IN SUCH SCHOOL YEAR
49 OR MAY OPT TO COMPUTE ACTUAL COSTS ON AN INDIVIDUAL STUDENT BASIS. IF
50 SUCH SCHOOL DISTRICT ELECTS TO USE REGIONAL RATES FOR SERVICES, IT SHALL
51 USE ALL REGIONAL RATES THEN IN EFFECT FOR BILLING SERVICES FOR ALL SUCH
52 NONRESIDENT STUDENTS AND IF SUCH SCHOOL DISTRICT ELECTS TO USE REGIONAL
53 RATES FOR BILLING EVALUATION OR SPECIAL EDUCATION ADMINISTRATION COSTS,
54 IT SHALL USE SUCH RATES FOR BILLING FOR SUCH COSTS FOR ALL SUCH NONRESI-
55 DENT STUDENTS. THE SCHOOL DISTRICT OF LOCATION MAY, HOWEVER, ELECT TO

1 USE REGIONAL RATES FOR ONE OR MORE CATEGORIES OF COSTS, AND NOT FOR THE
2 OTHER CATEGORIES.

3 E. NO CLAIM SHALL BE PAYABLE PURSUANT TO THIS SUBDIVISION UNLESS IT IS
4 SUBMITTED TO THE SCHOOL DISTRICT OF RESIDENCE, OR THE COMMISSIONER WHERE
5 APPLICABLE, WITHIN ONE YEAR OF THE END OF THE SCHOOL YEAR IN WHICH THE
6 COSTS WERE INCURRED, OR WITHIN SIXTY DAYS OF THE EFFECTIVE DATE OF THIS
7 PARAGRAPH, WHICHEVER IS LATER.

8 S 21. Subdivision 8 of section 3604 of the education law, as amended
9 by section 46 of part H of chapter 83 of the laws of 2002, is amended to
10 read as follows:

11 8. No school shall be in session on a Saturday or a legal holiday,
12 except general election day, Washington's birthday and Lincoln's birth-
13 day, and except that driver education classes may be conducted on a
14 Saturday. A deficiency not exceeding [three] FOUR days during any school
15 year caused by teachers' attendance upon conferences held by superinten-
16 dents of schools of city school districts or other school districts
17 employing superintendents of schools shall be excused by the commission-
18 er, NOTWITHSTANDING ANY PROVISION OF LAW, RULE OR REGULATION TO THE
19 CONTRARY, A SCHOOL DISTRICT MAY ELECT TO SCHEDULE SUCH CONFERENCE DAYS
20 IN THE LAST TWO WEEKS OF AUGUST AND SUCH DAYS SHALL BE COUNTED TOWARDS
21 THE REQUIRED ONE HUNDRED EIGHTY DAYS OF SESSION, provided however,
22 [notwithstanding any other provision of law, that during the nineteen
23 hundred ninety-two--ninety-three through the two thousand two--two thou-
24 sand three school years and thereafter, the] THAT SUCH SCHEDULING SHALL
25 NOT ALTER THE OBLIGATION OF THE SCHOOL DISTRICT TO PROVIDE TRANSPORTA-
26 TION TO STUDENTS IN NON-PUBLIC ELEMENTARY AND SECONDARY SCHOOLS OR CHAR-
27 TER SCHOOLS. THE commissioner shall excuse a deficiency not exceeding
28 four days during such school year caused by teachers' attendance upon
29 conferences held by such superintendents, provided that at least two
30 such conference days during such school year shall be dedicated to staff
31 attendance upon conferences providing staff development relating to
32 implementation of the new high learning standards and assessments, as
33 adopted by the board of regents. Notwithstanding any other provision of
34 law, rule or regulation to the contrary, school districts may elect to
35 use one or more of such allowable conference days in units of not less
36 than one hour each to provide staff development activities relating to
37 implementation of the new high learning standards and assessments. A
38 district making such election may provide such staff development during
39 the regularly scheduled daily session and apply such units to satisfy a
40 deficiency in the length of one or more daily sessions of instruction
41 for pupils as specified in regulations of the commissioner. The commis-
42 sioner shall assure that such conference days include appropriate school
43 violence prevention and intervention training, and may require that up
44 to one such conference day be dedicated for such purpose.

45 S 22. Paragraph e of subdivision 2 of section 4002 of the education
46 law, as added by chapter 563 of the laws of 1980, is amended to read as
47 follows:

48 e. Appointment by the commissioner to a state [or state-supported]
49 school in accordance with article [eighty-five,] eighty-seven or eight-
50 y-eight of this chapter OR ENROLLMENT IN A STATE-SUPPORTED SCHOOL IN
51 ACCORDANCE WITH ARTICLE EIGHTY-FIVE OF THIS CHAPTER.

52 S 23. Subdivision 2 of section 4201 of the education law is amended to
53 read as follows:

54 2. It shall be the duty of the commissioner:

55 a. To inquire into the organization of the several schools and the
56 methods of instruction employed therein.

1 b. To prescribe courses of study and methods of instruction that will
2 meet the requirements of the state for the education of [state] pupils
3 ATTENDING SUCH SCHOOLS.

4 c. [To make appointments of pupils to the several schools, to transfer
5 such pupils from one school to another as circumstances may require; to
6 cancel appointments for sufficient reason.

7 d.] To ascertain by a comparison with other similar institutions
8 whether any improvements in instruction and discipline can be made; and
9 for that purpose to appoint from time to time, suitable persons to visit
10 the schools.

11 [e] D. To suggest to the directors of such institutions and to the
12 legislature such improvements as he shall judge expedient.

13 [f] E. To make an annual report to the legislature on all of the
14 matters enumerated in this subdivision and particularly as to the condi-
15 tion of the schools, the improvement of the pupils, and their treatment
16 in respect to board and lodging.

17 S 24. Section 4203 of the education law is amended to read as follows:

18 S 4203. Persons eligible for [appointment] ENROLLMENT as pupils to
19 institutions for instruction of the deaf. All deaf children resident in
20 this state, of the age of three years and upwards and of suitable capac-
21 ity, and who shall have been resident in this state for one year imme-
22 diately preceding the application, or, if an orphan, whose nearest
23 friend shall have been resident in this state for one year immediately
24 preceding the application, shall be eligible [to appointment] FOR
25 ENROLLMENT as [state] pupils in one of the institutions for the instruc-
26 tion of the deaf of this state, authorized by law to receive such
27 pupils; provided, however, the foregoing requirement as to length of
28 residence in this state may be waived in the discretion of the commis-
29 sioner [of education]. PLACEMENT IN SUCH INSTITUTIONS SHALL BE RECOM-
30 MENDED BY THE COMMITTEE ON SPECIAL EDUCATION, OR COMMITTEE ON PRESCHOOL
31 SPECIAL EDUCATION WHERE APPLICABLE, OF THE SCHOOL DISTRICT RESPONSIBLE
32 FOR EDUCATING SUCH PUPIL, AND SUCH RECOMMENDATION MAY INCLUDE THE
33 PROVISION OF SPECIAL EDUCATION PROGRAMS AND SERVICES IN JULY OR AUGUST
34 IN ACCORDANCE WITH THE PROVISIONS OF PARAGRAPH A OF SUBDIVISION TWO OF
35 SECTION FORTY-FOUR HUNDRED TWO OF THIS CHAPTER.

36 S 25. Subdivision 3 of section 4204 of the education law, as amended
37 by section 51 of part A of chapter 58 of the laws of 2011, is amended to
38 read as follows:

39 3. The regular term of instruction of any such deaf pupil shall be
40 twelve years, or until the pupil shall have attained the age of eighteen
41 years before the expiration of twelve years from the beginning of such
42 term. The [commissioner] COMMITTEE ON SPECIAL EDUCATION may, in [his]
43 ITS discretion, [extend] RECOMMEND AN EXTENSION OF the term of any pupil
44 until his OR HER twenty-first birthday for the purpose of pursuing or
45 completing academic or vocational courses of study. Such pupils must be
46 recommended by the trustees of the institution in which they are in
47 attendance before THE COMMITTEE RECOMMENDS THAT such extension of time
48 [is granted] BE MADE.

49 S 26. Section 4206 of the education law, as amended by chapter 53 of
50 the laws of 1990, is amended to read as follows:

51 S 4206. Persons eligible for [appointment] ENROLLMENT as pupils [to]
52 IN institutions for instruction of the blind. 1. All blind persons of
53 suitable age and capacity and who shall have been residents in this
54 state for one year immediately preceding the application or, if a minor,
55 whose parent or parents, or, if an orphan, whose nearest friend, shall
56 have been a resident in this state for one year immediately preceding

1 the application, shall be eligible for [appointment] ENROLLMENT as
2 [state] pupils to the New York Institute for Special Education in the
3 city of New York or the Lavelle School for the Blind in the city of New
4 York.

5 2. Blind babies and children of the age of fifteen years and under and
6 possessing the other qualifications prescribed in this article and
7 requiring kindergarten training or other special care and instruction,
8 shall be eligible for [appointment] ENROLLMENT as [state] pupils [by the
9 commissioner of education at his discretion] in any incorporated insti-
10 tution furnishing approved care, training and instruction for blind
11 babies and children, and any such child may be transferred to the New
12 York Institute for Special Education in the city of New York or the
13 Lavelle School for the Blind in the city of New York, to which he or she
14 would otherwise be eligible for [appointment] ENROLLMENT, upon arriving
15 at suitable age[, in the discretion of the commissioner of education].

16 3. [All such appointments shall be made by the commissioner of educa-
17 tion.] The requirement of this section as to length of residence in this
18 state may be waived in the discretion of the commissioner [of educa-
19 tion].

20 4. PLACEMENT IN SUCH INSTITUTIONS SHALL BE RECOMMENDED BY THE COMMIT-
21 TEE ON SPECIAL EDUCATION, OR COMMITTEE ON PRESCHOOL SPECIAL EDUCATION
22 WHERE APPLICABLE, OF THE SCHOOL DISTRICT RESPONSIBLE FOR EDUCATING SUCH
23 PUPIL, AND SUCH RECOMMENDATION MAY INCLUDE THE PROVISION OF SPECIAL
24 EDUCATION PROGRAMS AND SERVICES IN JULY OR AUGUST IN ACCORDANCE WITH THE
25 PROVISIONS OF PARAGRAPH A OF SUBDIVISION TWO OF SECTION FORTY-FOUR
26 HUNDRED TWO OF THIS CHAPTER.

27 S 27. Subdivisions 3 and 4 of section 4207 of the education law, as
28 amended by section 54 of part A of chapter 58 of the laws of 2011, are
29 amended to read as follows:

30 3. The regular term of instruction of any such blind pupil in the New
31 York Institute for Special Education shall be eight years. The [commis-
32 sioner] COMMITTEE ON SPECIAL EDUCATION OF THE SCHOOL DISTRICT RESPONSI-
33 BLE FOR THE EDUCATION OF THE PUPIL, WITH THE CONSENT OF THE TRUSTEES OF
34 THE NEW YORK INSTITUTE FOR SPECIAL EDUCATION, may in [his] ITS
35 discretion [extend] RECOMMEND EXTENSION OF the term of any pupil for a
36 period not exceeding three years. It shall also be lawful for the
37 [commissioner] COMMITTEE to continue such pupils [as state pupils] for
38 an additional period of three years for the purpose of pursuing or
39 completing a course of high school study; such pupils must be recom-
40 mended by the trustees of the New York Institute for Special Education
41 before such extension is [granted] RECOMMENDED BY THE COMMITTEE.

42 4. The term of appointment for blind babies and children of the age of
43 fifteen years and under received into any institution in accordance with
44 this article shall be at the discretion of the [commissioner] COMMITTEE
45 ON SPECIAL EDUCATION OR PRESCHOOL COMMITTEE ON SPECIAL EDUCATION OF THE
46 SCHOOL DISTRICT RESPONSIBLE FOR THE EDUCATION OF THE STUDENT AND THE
47 TRUSTEES OF THE NEW YORK INSTITUTE FOR SPECIAL EDUCATION.

48 S 28. Section 4213 of the education law, as added by chapter 496 of
49 the laws of 1986, is amended to read as follows:

50 S 4213. Other persons eligible for [appointment] ENROLLMENT. In
51 accordance with the provisions of the charter of the New York Institute
52 for Special Education, and amendments thereto, as issued by the board of
53 regents, children with [handicapping conditions] DISABILITIES, other
54 than [handicapping conditions] DISABILITIES which would establish eligi-
55 bility for [appointment] ENROLLMENT to the schools enumerated in this
56 article, shall be eligible for [appointment] ENROLLMENT to the New York

1 Institute for Special Education as [state] pupils. The provisions of
2 this article shall apply but not necessarily be limited to the [appoint-
3 ment] ENROLLMENT, education, maintenance and support of such pupils.
4 Such pupils eligible for [appointment] ENROLLMENT, pursuant to this
5 section, shall be persons over five and under twenty-one years of age
6 who have not received a high school diploma.

7 S 29. Paragraph d of subdivision 2 of section 4401 of the education
8 law, as amended by chapter 53 of the laws of 1990, is amended to read as
9 follows:

10 d. Appointment by the commissioner to a state school in accordance
11 with article eighty-seven or eighty-eight of this chapter or ENROLLMENT
12 IN a state-supported school in accordance with article eighty-five of
13 this chapter.

14 S 30. Subparagraph 2 of paragraph b of subdivision 1 of section 4402
15 of the education law, as amended by chapter 352 of the laws of 2005, is
16 amended to read as follows:

17 (2) Such committees [or subcommittees] shall review at least annually,
18 the status of each student with a disability and each student thought to
19 be disabled who is identified pursuant to paragraph a of this subdivi-
20 sion. Such review shall consider the educational progress and achieve-
21 ment of the student with a disability and the student's ability to
22 participate in instructional programs in regular education.

23 S 30-a. Subparagraph 2 of paragraph b of subdivision 1 of section 4402
24 of the education law, as amended by chapter 82 of the laws of 1995, is
25 amended to read as follows:

26 (2) Such committees [or subcommittees] shall identify, review and
27 evaluate at least annually, the status of each child with a handicapping
28 condition and each child thought to be handicapped who resides within
29 the school district. Such review shall consider the educational progress
30 and achievement of the child with a handicapping condition and the
31 child's ability to participate in instructional programs in regular
32 education.

33 S 31. Subparagraph 2 of paragraph b of subdivision 2 of section 4402
34 of the education law, as amended by chapter 391 of the laws of 1989, is
35 amended to read as follows:

36 (2) The board shall select the most reasonable and appropriate special
37 service or program for such children from those programs specified in
38 paragraphs a, b, c, D, e, f, g, h, i, k, l and m of subdivision two of
39 section forty-four hundred one of this article upon receipt of the
40 recommendation of the committee on special education. All contracts with
41 schools pursuant to the provisions of paragraphs d, e, f, g, h, l and m
42 of subdivision two of section forty-four hundred one of this article
43 shall be subject to the approval of the commissioner. All contracts
44 under paragraph c of subdivision two of section forty-four hundred one
45 shall be made in accordance with the provisions of subdivision four of
46 section nineteen hundred fifty of this chapter. No child shall be placed
47 in a residential school nor shall a board recommend placement in a resi-
48 dential facility specified in paragraph j of subdivision two of section
49 forty-four hundred one unless there is no appropriate nonresidential
50 school available consistent with the needs of the child. The board
51 shall provide written notice of its determination to the parent or legal
52 guardian of such child. If the determination of the board of education
53 is not consistent with the recommendations of the committee on special
54 education, such notice shall include the statement of the reasons for
55 such determination which shall identify the factors considered by the
56 committee on special education in its evaluation.

1 S 32. The opening paragraph of subparagraph 3 and subparagraph 3-a of
2 paragraph b of subdivision 1 of section 4402 of the education law, the
3 opening paragraph of subparagraph 3 as amended by chapter 53 of the laws
4 of 1991 and subparagraph 3-a as added by chapter 630 of the laws of
5 2008, are amended to read as follows:

6 The committee [or when applicable the subcommittee] shall:

7 (3-a) The members of the committee [or subcommittee] may compile a
8 list of appropriate and/or helpful services that may be available
9 outside of the school setting to provide the parents or person in
10 parental relation of a child with a disability with such information.
11 Such list shall clearly state that these services are in addition to
12 services supplied by the school district and will not be paid for by the
13 school district. Any member of a committee [or subcommittee] or his or
14 her respective school district who, acting reasonably and in good faith,
15 provides such information shall not be liable for such action.

16 S 33. Clause h of subparagraph 3 of paragraph b of subdivision 1 of
17 section 4402 of the education law is REPEALED.

18 S 34. Subdivisions 8 and 9 of section 4403 of the education law, as
19 amended by chapter 273 of the laws of 1986, are amended to read as
20 follows:

21 8. To develop and distribute a handbook for parents of handicapped
22 children and the members of committees [and subcommittees] on special
23 education, which handbook shall explain, in layman terms, the financial
24 and educational obligations of the state, the county or city, the home
25 school district, the committee on special education, and the parent or
26 legal guardian of a handicapped child, the special services or programs
27 available pursuant to this article, and the legal procedures available
28 to an aggrieved parent or legal guardian of a handicapped child.

29 9. To make provision by regulation of the commissioner to assure the
30 confidentiality of any personally identifiable data, information, and
31 records collected or maintained by the state department of education or
32 any school district, including a committee [or subcommittee] on special
33 education, and the officers, employees or members thereof, pursuant to
34 or in furtherance of the purposes of this article, and shall establish
35 procedures upon which any such personally identifiable data, informa-
36 tion, or records may be disclosed.

37 S 35. Subdivision 17 of section 4403 of the education law, as amended
38 by chapter 53 of the laws of 1987, is amended to read as follows:

39 17. Commencing with the nineteen hundred eighty-seven--eighty-eight
40 school year, to provide for instruction during the months of July and
41 August of students with [handicapping conditions] DISABILITIES who have
42 received state appointments pursuant to article [eighty-five,] eighty-
43 seven or eighty-eight of this chapter, and whose [handicapping condi-
44 tions, in the judgment of the commissioner,] DISABILITIES are severe
45 enough to exhibit the need for a structured learning environment of
46 twelve months duration to maintain developmental levels, by making such
47 appointments for twelve months; provided that the initial term of
48 appointment of a student with a [handicapping condition] DISABILITY who
49 is the minimum age eligible for such a state appointment shall not
50 commence during the months of July or August.

51 S 36. The opening paragraph and clauses (a), (b) and (c) of subpara-
52 graph 1 of paragraph b of subdivision 1 of section 4402 of the education
53 law, the opening paragraph, clauses (a) and (c) as amended by chapter
54 311 of the laws of 1999, subclause (viii) of clause (a) as amended by
55 chapter 194 of the laws of 2004 and clause (b) as amended by chapter 378
56 of the laws of 2007, are amended to read as follows:

1 The board of education or trustees of each school district shall
2 establish committees [and/or subcommittees] on special education as
3 necessary to ensure timely evaluation and placement of pupils. The board
4 of education of the city school district of the city of New York, shall
5 establish at least one committee on special education in each of its
6 community school districts, provided that appointments to the community
7 school district committees shall be made upon the approval of the commu-
8 nity school board except that the board of education of the city school
9 district of the city of New York, may establish one committee to serve
10 more than one community school district, in which case, appointments
11 thereto shall be made upon the joint approval of the affected community
12 school boards; provided, however, that prior to such consolidation, the
13 board shall consider the relative caseload of the committee on special
14 education in each affected community school district, including but not
15 limited to the following factors: the number of students evaluated by
16 such committee; the number of referrals to special education in such
17 community school district; the ability to comply with mandated paperwork
18 and timelines; and other issues which the board deems pertinent.

19 (a) Such committees shall be composed of at least the following
20 members: (i) the parents or persons in parental relationship to the
21 student; (ii) one regular education teacher of the student whenever the
22 student is or may be participating in the regular education environment;
23 (iii) one special education teacher of the student, or, if appropriate,
24 a special education provider of the student; (iv) a school psychologist
25 WHERE THE PURPOSE OF THE MEETING IS TO DETERMINE A STUDENT'S INITIAL
26 ELIGIBILITY FOR SPECIAL EDUCATION; (v) a representative of such school
27 district who is qualified to provide or administer or supervise special
28 education and is knowledgeable about the general curriculum and the
29 availability of resources of the school district; (vi) an individual who
30 can interpret the instructional implications of evaluation results;
31 (vii) [a school physician; (viii) an additional parent, residing in the
32 school district or a neighboring school district, of a student with a
33 disability, of a student who has been declassified and is no longer
34 eligible for an individualized education program (IEP), or a parent of a
35 disabled child who has graduated, for a period of five years beyond the
36 student's declassification or graduation, provided such parent shall not
37 be employed by or under contract with the school district, and provided
38 further that such additional parent shall not be a required member if
39 the parents request that such additional parent member not participate;
40 (ix)] such other persons having knowledge or special expertise regarding
41 the student as the school district or the parents or persons in parental
42 relationship to the student shall designate, to the extent required
43 under federal law; and [(x)] (VIII) if appropriate, the student.

44 (b) In determining the composition of such committee pursuant to
45 clause (a) of this subparagraph, a school district may determine that a
46 member appointed pursuant to one of subclause (ii), (iii), (iv), (v) or
47 [(ix)] (VII) of clause (a) of this subparagraph also fulfills the
48 requirement of subclause (vi) of clause (a) of this subparagraph of a
49 member who is an individual who can interpret the instructional impli-
50 cations of evaluation results where such individuals are determined by
51 the school district to have the knowledge and expertise to do so and/or
52 that a member appointed pursuant to subclause (iii) or (iv) of clause
53 (a) of this subparagraph also fulfills the requirement of subclause (v)
54 of clause (a) of this subparagraph of a member who is a representative
55 of the school district. The regular education teacher of the student
56 shall participate in the development, review and revision of the indi-

1 individualized education program for the student, to the extent required
2 under federal law. [The school physician need not be in attendance at
3 any meeting of the committee on special education unless specifically
4 requested in writing, at least seventy-two hours prior to such meeting
5 by the parents or other person in parental relation to the student in
6 question, the student, or a member of the committee on special educa-
7 tion. The parents or persons in parental relation of the student in
8 question shall receive proper written notice of their right to have the
9 school physician attend the meetings of the committee on special educa-
10 tion upon referral of said student to the committee on special education
11 or whenever such committee plans to modify or change the identification,
12 evaluation or educational placement of the student and their right to
13 request that an additional parent member not participate at any meeting
14 of the committee regarding the student.] The committee shall invite the
15 appropriate professionals most familiar with a student's disability or
16 disabilities to attend any meeting concerning the educational program
17 for such student. Except as otherwise provided in this clause or clause
18 (b-1) or (b-2) of this subparagraph, all members of such committee shall
19 attend meetings of the committee on special education.

20 Members of such committee shall serve at the pleasure of such board
21 and members who are neither employees of nor under contract with such
22 district shall serve without compensation except that such members shall
23 be entitled to a per diem to defray expenses incurred in such service,
24 provided, however, that any expense incurred shall be deemed an aidable
25 operating expense for purposes of state aid.

26 (c) Districts not having available personnel may share the services of
27 a local committee on special education with another school district or
28 contract with a board of cooperative educational services for such
29 personnel pursuant to regulations of the commissioner. [A district
30 having a subcommittee on special education may share the services of a
31 local committee on special education with another school district,
32 provided that a representative of such school district who is qualified
33 to provide or administer or supervise special education and is know-
34 ledgeable about the general curriculum and the availability of resources
35 of the school district shall be a member of such committee when it
36 convenes on behalf of a student who is a resident of such district.]

37 S 36-a. Clause (b) of subparagraph 1 of paragraph b of subdivision 1
38 of section 4402 of the education law, as amended by chapter 311 of the
39 laws of 1999, is amended to read as follows:

40 (b) In determining the composition of such committee pursuant to
41 clause (a) of this subparagraph, a school district may determine that a
42 member appointed pursuant to one of subclause (ii), (iii), (iv), (v) or
43 [(ix)] (VII) of clause (a) of this subparagraph also fulfills the
44 requirement of subclause (vi) of clause (a) of this subparagraph of a
45 member who is an individual who can interpret the instructional impli-
46 cations of evaluation results where such individuals are determined by
47 the school district to have the knowledge and expertise to do so and/or
48 that a member appointed pursuant to subclause (iii) or (iv) of clause
49 (a) of this subparagraph also fulfills the requirement of subclause (v)
50 of clause (a) of this subparagraph of a member who is a representative
51 of the school district. The regular education teacher of the student
52 shall participate in the development, review and revision of the indi-
53 vidualized education program for the student, to the extent required
54 under federal law. [The school physician need not be in attendance at
55 any meeting of the committee on special education unless specifically
56 requested in writing, at least seventy-two hours prior to such meeting

1 by the parents or other person in parental relationship to the student
2 in question, the student, or a member of the committee on special educa-
3 tion. The parents or persons in parental relationship of the student in
4 question shall receive proper written notice of their right to have the
5 school physician attend the meetings of the committee on special educa-
6 tion upon referral of said student to the committee on special education
7 or whenever such committee plans to modify or change the identification,
8 evaluation or educational placement of the student and their right to
9 request that an additional parent member not participate at any meeting
10 of the committee regarding the student. The committee shall invite the
11 appropriate professionals most familiar with a student's disability or
12 disabilities to attend any meeting concerning the educational program
13 for such student. Members of such committee shall serve at the pleasure
14 of such board and members who are neither employees of nor under
15 contract with such district shall serve without compensation except that
16 such members shall be entitled to a per diem to defray expenses incurred
17 in such service, provided, however, that any expense incurred shall be
18 deemed an aidable operating expense for purposes of state aid.]

19 S 37. Clause (d) of subparagraph 1 of paragraph b of subdivision 1 of
20 section 4402 of the education law is REPEALED.

21 S 38. Clause (d-2) of subparagraph 3 of paragraph b of subdivision 1
22 of section 4402 of the education law is REPEALED.

23 S 39. Subparagraphs 5 and 7 of paragraph b of subdivision 1 of section
24 4402 of the education law, subparagraph 5 as amended by chapter 256 of
25 the laws of 1988 and subparagraph 7 as amended by chapter 194 of the
26 laws of 1991, are amended to read as follows:

27 (5) The committee on special education or, in the case of a state
28 operated school, the multidisciplinary team shall [provide written
29 notice that a child who is placed in those residential programs speci-
30 fied in paragraphs d, g, h and l of subdivision two of section forty-
31 four hundred one of this article is not entitled to receive tuition free
32 educational services after the age of twenty-one, the receipt of a high
33 school diploma or the time described in subdivision five of this
34 section. Such written notice shall be provided to the child and to the
35 parents or legal guardian of such child when such child attains the age
36 of eighteen or, if such child is over the age of eighteen when placed in
37 such a residential program, at the time of placement. Upon the first
38 annual review after the age of fifteen of a child who is receiving non-
39 residential special services or programs as specified in paragraph a, b,
40 c, d, e, f, i, j, l or m of subdivision two of section forty-four
41 hundred one of this article, or is receiving special services or
42 programs in a day program at the human resources school; is receiving
43 such special services or programs one hundred per centum of the school
44 day; is receiving individualized attention or intervention because of
45 intensive management needs or a severe handicap; and, as determined by
46 the committee on special education or multidisciplinary team pursuant to
47 regulations promulgated by the commissioner, may need adult services
48 from the office of mental health, office of mental retardation and
49 developmental disabilities, the state department of social services, a
50 social services district, or the state education department, the commit-
51 tee or multidisciplinary team shall provide to such child's parent or
52 guardian, and if such child is eighteen years of age or older, to the
53 child, written notice that such child is not entitled to receive tuition
54 free educational services after the receipt of a high school diploma,
55 the age of twenty-one or the time described in subdivision five of this
56 section] NOT LATER THAN THE ANNUAL REVIEW PRIOR TO THE EIGHTEENTH BIRTH-

1 DAY OF A STUDENT WITH A DISABILITY WHO IS PLACED IN A RESIDENTIAL
2 PROGRAM BY THE COMMITTEE OR MULTIDISCIPLINARY TEAM, OR A STUDENT WITH A
3 DISABILITY WHO IS PLACED IN A DAY PROGRAM BUT THE COMMITTEE OR MULTIDIS-
4 CIPLINARY TEAM HAS DETERMINED THAT THE STUDENT IS LIKELY TO REQUIRE
5 ADULT RESIDENTIAL SERVICES, WITH THE CONSENT OF THE PARENTS, NOTIFY AND
6 INVITE A REPRESENTATIVE OF THE OFFICE OF MENTAL HEALTH, OFFICE FOR
7 PEOPLE WITH DEVELOPMENTAL DISABILITIES, OR THE STATE EDUCATION DEPART-
8 MENT, AS APPROPRIATE, TO PARTICIPATE IN THE COMMITTEE ON SPECIAL EDUCA-
9 TION MEETING FOR THE DEVELOPMENT OF A RECOMMENDATION FOR ADULT SERVICES
10 PURSUANT TO SECTIONS 7.37 OR 13.37 OF THE MENTAL HYGIENE LAW, SECTION
11 THREE HUNDRED NINETY-EIGHT-C OF THE SOCIAL SERVICES LAW OR SECTION
12 FORTY-FOUR HUNDRED THREE OF THIS ARTICLE. THE COMMITTEE OR MULTIDISCI-
13 PLINARY TEAM SHALL GIVE THE PARENT OR GUARDIAN OF THE CHILD, THE OPPOR-
14 TUNITY TO CONSENT IN WRITING TO THE RELEASE OF RELEVANT INFORMATION TO
15 SUCH OTHER PUBLIC AGENCY OR AGENCIES, UPON REQUEST OF SUCH AGENCY OR
16 AGENCIES, FOR PURPOSES OF DETERMINING APPROPRIATENESS OF AN ADULT
17 PROGRAM FOR SUCH STUDENT.

18 (a) [Written notice given pursuant to this subparagraph shall describe
19 in detail the opportunity to consent to have the child's name and other
20 relevant information forwarded in a report to the commissioner of mental
21 health, commissioner of mental retardation and developmental disabili-
22 ties, commissioner of social services, or commissioner of education, or
23 their designees, for the purpose of determining whether such child will
24 likely need adult services and, if so, recommending possible adult
25 services.] For the purposes of this subparagraph "relevant information"
26 shall be defined as that information in the possession of and used by
27 the committee or the multidisciplinary team to ascertain the physical,
28 mental, emotional and cultural-educational factors which contribute to
29 the [child's handicapping condition] STUDENT'S DISABILITY, including but
30 not limited to: (i) results of physical and psychological examinations
31 performed by private and school district physicians and psychologists;
32 (ii) relevant information presented by the parent, guardian and teacher;
33 (iii) school data which bear on the [child's] STUDENT'S progress includ-
34 ing the [child's] STUDENT'S most recent individualized education
35 program; (iv) results of the most recent examinations and evaluations
36 performed pursuant to clause (d) of subparagraph three of this para-
37 graph; and (v) results of other suitable evaluations and examinations
38 possessed by the committee or multidisciplinary team. Nothing in this
39 subparagraph shall be construed to require any committee or multidisci-
40 plinary team to perform any examination or evaluation not otherwise
41 required by law.

42 (b) Upon consent obtained pursuant to clause [(c)] (A) of this subpar-
43 agraph, the committee or multidisciplinary team shall forward the
44 [child's] STUDENT'S name and other relevant information in a report to
45 the [commissioner of mental health, commissioner of mental retardation
46 and developmental disabilities, commissioner of social services, or
47 commissioner of education, or their designees, for the development of a
48 recommendation for adult services pursuant to section 7.37 or 13.37 of
49 the mental hygiene law, section three hundred ninety-eight-c of the
50 social services law or subdivision ten of section forty-four hundred
51 three of this article. The] APPROPRIATE PUBLIC AGENCY AS DETERMINED BY
52 THE committee or multidisciplinary team [shall determine which commis-
53 sioner shall receive the report by considering], BASED UPON the [child's
54 handicapping condition] STUDENT'S DISABILITY and physical, mental,
55 emotional and social needs. The committee shall forward additional and
56 updated relevant information to the [commissioner of mental health,

1 commissioner of mental retardation and developmental disabilities,
2 commissioner of social services, or commissioner of education, or their
3 designees,] APPROPRIATE PUBLIC AGENCY upon the request for such informa-
4 tion by such [commissioner or designee] AGENCY, WITH THE CONSENT OF THE
5 PARENTS OR THE STUDENT, IF SUCH STUDENT IS EIGHTEEN YEARS OF AGE OR
6 OLDER.

7 (c) [Upon receipt of the notice by the child pursuant to this subpara-
8 graph, the child, if eighteen years of age or older, shall be given the
9 opportunity to consent or withhold consent to the release of the rele-
10 vant information. Such opportunity shall be given within twenty days of
11 the receipt of the notice. An appropriate member of the staff of the
12 educational facility shall be available to assist the child, if neces-
13 sary, to understand the contents of the notice and the need for his or
14 her consent for the release of the relevant information. A form,
15 prescribed by the commissioner, shall be presented to the child for
16 response, which shall clearly set forth the options of giving consent or
17 withholding consent. In the event that the child exercises neither
18 option, and the designated member of the staff of the educational facil-
19 ity has reason to believe that the child may not be able to understand
20 the purpose of the form, or in the event that the child is less than
21 eighteen years of age, the committee on special education or the multi-
22 disciplinary team shall give the parent or guardian of the child the
23 opportunity to consent in writing to the release of the relevant infor-
24 mation. Nothing in this clause shall be construed to be a determination
25 of the child's mental capacity.

26 (d)] When the committee or multidisciplinary team is notified by the
27 [commissioner who] PUBLIC AGENCY WHICH received the report that such
28 state agency is not responsible for determining and recommending adult
29 services for the child, the committee or multidisciplinary team shall
30 forward the report to another [commissioner] PUBLIC AGENCY; or, if the
31 committee or multidisciplinary team determines that there exists a
32 dispute as to which state agency has the responsibility for determining
33 and recommending adult services, the committee or multidisciplinary team
34 may forward the report to the council on children and families for a
35 resolution of such dispute.

36 [(e) The committee and multidisciplinary team shall prepare and submit
37 an annual report to the state education department on or before October
38 first of each year. Such annual report shall contain the number of cases
39 submitted to each commissioner pursuant to clause (b) or (d) of this
40 subparagraph, the type and severity of the handicapping condition
41 involved with each such case, the number of notices received which deny
42 responsibility for determining and recommending adult services, and
43 other information necessary for the state education department and the
44 council on children and families to monitor the need for adult services.
45 Such annual report shall not contain individually identifying informa-
46 tion. The state education department shall forward a copy of such annual
47 report to the council on children and families. All information received
48 by the council on children and families pursuant to this subparagraph
49 shall be subject to the confidentiality requirements of the department.

50 (f) For purposes of this subparagraph, the term "multidisciplinary
51 team" refers to the unit which operates in lieu of a committee on
52 special education with respect to children in state operated schools.]

53 [(7)] (6) The committee on special education shall provide a copy of
54 the handbook for parents of children with [handicapping conditions]
55 DISABILITIES established under subdivision eight of section four thou-
56 sand four hundred three of this article or a locally approved [hand-

1 icapped] booklet FOR PARENTS OF CHILDREN WITH DISABILITIES to the
2 parents or person in parental relationship to a child as soon as practi-
3 cable after such child has been referred for evaluation to the committee
4 on special education.

5 S 40. Paragraph a of subdivision 2 of section 4402 of the education
6 law, as amended by chapter 243 of the laws of 1989, is amended to read
7 as follows

8 a. The board of education or trustees of each school district shall be
9 required to furnish suitable educational opportunities for [children
10 with handicapping conditions] STUDENTS WITH DISABILITIES by one of the
11 special services or programs listed in subdivision two of section
12 forty-four hundred one. The need of the individual child shall determine
13 which of such services shall be rendered. Each district shall provide to
14 the maximum extent appropriate such services in a manner which enables
15 [children with handicapping conditions] STUDENTS WITH DISABILITIES to
16 participate in regular education services when appropriate. Such
17 services or programs shall be furnished between the months of September
18 and June of each year, except that for the nineteen hundred eighty-sev-
19 en--eighty-eight school year and thereafter, with respect to the
20 students whose [handicapping conditions] DISABILITIES are severe enough
21 to exhibit the need for a structured learning environment of twelve
22 months duration to maintain developmental levels, the board of education
23 or trustees of each school district upon the recommendation of the
24 committee on special education [and, in the first instance, the consent
25 of the parent] shall also provide, either directly or by contract, for
26 the provision of special services and programs as defined in section
27 forty-four hundred one of this article during the months of July and
28 August as contained in the individualized education program for each
29 eligible [child] STUDENT, and with prior approval by the commissioner if
30 required; provided that [(i) a student with a handicapping condition who
31 is first eligible to attend public school in the nineteen hundred eight-
32 y-seven--eighty-eight school year shall not be eligible to receive
33 services pursuant to this paragraph during the months of July and August
34 nineteen hundred eighty-seven and (ii) a student with a handicapping
35 condition who is first eligible to attend public school in the nineteen
36 hundred eighty-eight--eighty-nine school year shall not be eligible to
37 receive services pursuant to this paragraph during the months of July
38 and August nineteen hundred eighty-eight and (iii) a student with a
39 handicapping condition who is eligible for services during the months of
40 July and August nineteen hundred eighty-nine pursuant to the provisions
41 of subdivision six of section forty-four hundred ten of this article
42 shall not be eligible to receive services pursuant to this paragraph
43 during such months and (iv)] a student with a [handicapping condition]
44 DISABILITY who is eligible for services, including services during the
45 months of July and August, pursuant to section forty-four hundred ten of
46 this article shall not be eligible to receive services pursuant to this
47 paragraph during the months of July and August.

48 S 41. Paragraph d of subdivision 4 of section 4402 of the education
49 law, as amended by chapter 646 of the laws of 1992, is amended to read
50 as follows

51 d. Notwithstanding any other provision of law, such board shall
52 provide suitable transportation up to a distance of fifty miles to and
53 from a nonpublic school which a [child] STUDENT with a [handicapping
54 condition] DISABILITY attends if such [child] STUDENT has been so iden-
55 tified by the local committee on special education and such [child]
56 STUDENT attends such school for the purpose of receiving services or

1 programs FROM SUCH NONPUBLIC SCHOOL THAT ARE similar to special [educa-
2 tional programs] EDUCATION PROGRAMS AND SERVICES recommended for such
3 [child] STUDENT by the local committee on special education. NOTWITH-
4 STANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, A NONPUBLIC STUDENT
5 RECEIVING TRANSPORTATION PURSUANT TO THIS PARAGRAPH SHALL NOT BE ENTI-
6 TLED TO SPECIAL EDUCATION PROGRAMS AND SERVICES FROM THE SCHOOL DISTRICT
7 OF LOCATION PURSUANT TO SECTION THIRTY-SIX HUNDRED TWO-C OF THIS CHAP-
8 TER. AS A CONDITION OF ELIGIBILITY FOR SUCH TRANSPORTATION, THE PARENT
9 OR PERSON IN PARENTAL RELATION TO THE STUDENT SHALL CONSENT TO THE
10 PROVISION OF NOTICE BY THE SCHOOL DISTRICT OF RESIDENCE TO THE CHAIR-
11 PERSON OF THE COMMITTEE ON SPECIAL EDUCATION OF THE SCHOOL DISTRICT IN
12 WHICH THE NONPUBLIC SCHOOL IS LOCATED IDENTIFYING SUCH STUDENT, BY NAME,
13 ADDRESS AND SCHOOL OF ATTENDANCE, AS A STUDENT RECEIVING TRANSPORTATION
14 PURSUANT TO THIS PARAGRAPH. THE SCHOOL DISTRICT OF RESIDENCE SHALL
15 PROVIDE SUCH NOTICE NO LATER THAN THIRTY DAYS AFTER COMMENCING SUCH
16 TRANSPORTATION.

17 S 42. Subdivision 18 of section 4403 of the education law is REPEALED.

18 S 43. Paragraph a of subdivision 1 of section 4404 of the education
19 law, as amended by chapter 430 of the laws of 2006, is amended to read
20 as follows:

21 a. If the parent or person in parental relation of a student, the
22 board of education or trustees of a school district or a state agency
23 responsible for providing education to students with disabilities
24 presents a complaint with respect to any matter relating to the iden-
25 tification, evaluation or educational placement of the student or the
26 provision of a free appropriate public education to the student or a
27 manifestation determination or other matter relating to placement upon
28 discipline of a student with a disability that may be the subject of an
29 impartial hearing pursuant to subsection (k) of section fourteen hundred
30 fifteen of title twenty of the United States code and the implementing
31 federal regulations, and the party presenting the complaint or their
32 attorney provides a due process complaint notice in accordance with
33 federal law and regulations and such complaint sets forth an alleged
34 violation that occurred not more than [two years] ONE YEAR before the
35 date the parent or public agency knew or should have known about the
36 alleged action that forms the basis for the complaint, OR IN THE CASE OF
37 A COMPLAINT SEEKING TUITION REIMBURSEMENT FOR THE UNILATERAL PARENTAL
38 PLACEMENT OF A STUDENT IN A PRIVATE SCHOOL, SUCH TUITION CLAIM IS
39 PRESENTED NOT MORE THAN ONE HUNDRED EIGHTY DAYS FROM THE PLACEMENT BY
40 THE PARENT OR PERSON IN PARENTAL RELATION IN THE PRIVATE SCHOOL,
41 PROVIDED THAT THE STUDENT SHALL BE DEEMED PLACED FOR SUCH PURPOSE ON THE
42 FIRST DAY THE STUDENT IS ENROLLED IN AND IS LIABLE FOR TUITION IN THE
43 PRIVATE SCHOOL, the board or agency shall appoint an impartial hearing
44 officer to review the due process complaint notice when challenged and,
45 if the matter is not resolved in a resolution session that has been
46 convened as required by federal law, to preside over an impartial due
47 process hearing and make a determination within such period of time as
48 the commissioner by regulation shall determine, provided that the board
49 of education or trustees shall offer the parent or person in parental
50 relation the option of mediation pursuant to section forty-four hundred
51 four-a of this article as an alternative to an impartial hearing. Where
52 the parent or person in parental relation or a school district or public
53 agency presents a complaint, the school district or public agency
54 responsible for appointing the impartial hearing officer shall provide
55 the parent or person in parental relation with a procedural safeguards
56 notice as required pursuant to subsection (d) of section fourteen

1 hundred fifteen of title twenty of the United States code and the imple-
2 menting federal regulations. Notwithstanding any provision of this
3 subdivision to the contrary, the time limitation on presenting a
4 complaint shall not apply to a parent or person in parental relation to
5 the student if the parent or person in parental relation was prevented
6 from requesting the impartial hearing due to specific misrepresentations
7 by the school district or other public agency that it had resolved the
8 problem forming the basis of the complaint or due to the school
9 district's or other public agency's withholding of information from the
10 parent or person in parental relation that was required under federal
11 law to be provided. Nothing in this subdivision shall be construed to
12 authorize the board of education or trustees to bring an impartial hear-
13 ing to override the refusal of a parent or person in parental relation
14 to consent where a local educational agency is prohibited by federal law
15 from initiating such a hearing.

16 S 44. Subparagraph 1 of paragraph a of subdivision 3 of section 4410
17 of the education law, as amended by chapter 378 of the laws of 2007, is
18 amended to read as follows:

19 (1) Such board shall ensure that such committee is composed of at
20 least the following members: (i) the parents of the preschool child;
21 (ii) a regular education teacher of such child, whenever the child is or
22 may be participating in a regular education environment; (iii) a special
23 education teacher of the child or, if appropriate, a special education
24 provider of the child; (iv) an appropriate professional employed by the
25 school district who is qualified to provide, or supervise the provision
26 of, special education, who is knowledgeable about the general curriculum
27 of the school district and the availability of preschool special educa-
28 tion programs and services and other resources in the school district
29 and the municipality, and who shall serve as chairperson of the commit-
30 tee; (v) [an additional parent of a child with a disability who resides
31 in the school district or a neighboring school district and whose child
32 is enrolled in a preschool or elementary level education program,
33 provided that such parent shall not be employed by or under contract
34 with the school district or municipality, and provided further that such
35 additional parent shall not be a required member if the parents request
36 that such additional parent member not participate; (vi)] an individual
37 who can interpret the instructional implications of evaluation results,
38 provided that such individual may be the member appointed pursuant to
39 clause (ii), (iii), (iv) or [(vii)] (VI) of this subparagraph where such
40 individuals are determined by the school district to have the knowledge
41 and expertise to do so; [(vii)] OR (VI) such other persons having know-
42 ledge or expertise regarding the child as the board or the parents shall
43 designate, to the extent required under federal law; and for a child in
44 transition from programs and services provided pursuant to applicable
45 federal laws relating to early intervention services, at the request of
46 the parent or person in parental relation to the child, the appropriate
47 professional designated by the agency that has been charged with the
48 responsibility for the preschool child pursuant to said applicable
49 federal laws. In addition, the chief executive officer of the munici-
50 pality of the preschool child's residence shall appoint an appropriately
51 certified or licensed professional to the committee. Attendance of the
52 appointee of the municipality shall not be required for a quorum.

53 S 44-a. Subparagraph 1 of paragraph a of subdivision 3 of section 4410
54 of the education law, as amended by chapter 311 of the laws of 1999, is
55 amended to read as follows:

1 (1) Such board shall ensure that such committee is composed of at
2 least the following members: (i) the parents of the preschool child;
3 (ii) a regular education teacher of such child, whenever the child is or
4 may be participating in a regular education environment; (iii) a special
5 education teacher of the child or, if appropriate, a special education
6 provider of the child; (iv) an appropriate professional employed by the
7 school district who is qualified to provide, or supervise the provision
8 of, special education, who is knowledgeable about the general curriculum
9 of the school district and the availability of preschool special educa-
10 tion programs and services and other resources in the school district
11 and the municipality, and who shall serve as chairperson of the commit-
12 tee; (v) [an additional parent of a child with a disability who resides
13 in the school district or a neighboring school district and whose child
14 is enrolled in a preschool or elementary level education program,
15 provided that such parent shall not be employed by or under contract
16 with the school district or municipality, and provided further that such
17 additional parent shall not be a required member if the parents request
18 that such additional parent member not participate; (vi)] an individual
19 who can interpret the instructional implications of evaluation results,
20 provided that such individual may be the member appointed pursuant to
21 clause (ii), (iii), (iv) or [(vii)] (VI) of this subparagraph where such
22 individuals are determined by the school district to have the knowledge
23 and expertise to do so; [(vii)] OR (VI) such other persons having know-
24 ledge or expertise regarding the child as the board or the parents shall
25 designate, to the extent required under federal law; and for a child in
26 transition from programs and services provided pursuant to applicable
27 federal laws relating to early intervention services, the appropriate
28 professional designated by the agency that has been charged with the
29 responsibility for the preschool child pursuant to said applicable
30 federal laws. In addition, the chief executive officer of the munici-
31 pality of the preschool child's residence shall appoint an appropriately
32 certified or licensed professional to the committee. Attendance of the
33 appointee of the municipality shall not be required for a quorum.

34 S 45. Paragraph b of subdivision 4 of section 4410 of the education
35 law, as added by chapter 243 of the laws of 1989, is amended to read as
36 follows:

37 b. Each board shall, within time limits established by the commission-
38 er, be responsible for providing the parent of a preschool child
39 suspected of having a [handicapping condition] DISABILITY with a list of
40 approved evaluators in the geographic area. The [parent may select the
41 evaluator from such list] SCHOOL DISTRICT SHALL, AFTER PROVIDING THE
42 PARENT WITH A LIST OF APPROVED PRESCHOOL EVALUATORS AND OBTAINING PARENT
43 CONSENT TO EVALUATE, ARRANGE FOR AN EVALUATION BY THE SERVICE PROVIDER
44 SELECTED BY THE DISTRICT WHO CAN PROVIDE THE EVALUATION OF THE STUDENT
45 WITHIN THE TIMELINE REQUIRED BY THE DEPARTMENT. IN SELECTING THE EVALU-
46 ATOR, THE DISTRICT SHALL CONSIDER THE PARENT'S EXPRESSED PREFERENCE, IF
47 ANY, FOR THE EVALUATOR. Each board shall provide for dissemination of
48 the list and other information to parents at appropriate sites including
49 but not limited to pre-kindergarten, day care, head start programs and
50 early childhood direction centers, pursuant to regulations of the
51 commissioner.

52 S 46. Paragraphs (a) and (c) of subdivision 9-a of section 4410 of the
53 education law, paragraph (a) as amended by chapter 581 of the laws of
54 2011 and paragraph (c) as added by chapter 82 of the laws of 1995, are
55 amended to read as follows:

1 (a) A [school district or a] group of appropriately licensed and/or
2 certified professionals associated with a public or private agency may
3 apply to the commissioner for approval as an evaluator on a form
4 prescribed by the commissioner. The commissioner shall approve evalu-
5 ators pursuant to this subdivision consistent with the approval process
6 for the multi-disciplinary evaluation component of programs approved
7 pursuant to subdivision nine of this section consistent with regulations
8 adopted pursuant to such subdivision. ALL SCHOOL DISTRICTS ARE DEEMED
9 APPROVED EVALUATORS OF PRESCHOOL STUDENTS SUSPECTED OF HAVING A DISABIL-
10 ITY WITHOUT THE NEED TO SUBMIT AN APPLICATION TO THE COMMISSIONER.

11 Such application shall include, but not be limited to, a description
12 of the multi-disciplinary evaluation services proposed to be provided
13 and a demonstration that all agency employees and staff who provide such
14 evaluation services shall have appropriate licensure and/or certifi-
15 cation and that the individual who shall have direct supervision
16 responsibilities over such staff shall have an appropriate level of
17 experience in providing evaluation or services to preschool or kinder-
18 garten-aged children with disabilities. To be eligible for approval as
19 an evaluator under this subdivision on and after July first, two thou-
20 sand eleven, a group of appropriately licensed or certified profes-
21 sionals shall be formed as a limited liability company or professional
22 services corporation established pursuant to article fifteen of the
23 business corporation law, article twelve or thirteen of the limited
24 liability company law or article eight-B of the partnership law. The
25 approval of any groups of licensed or certified professionals that are
26 in existence on July first, two thousand eleven and would not be eligi-
27 ble for approval thereafter shall terminate on July first, two thousand
28 thirteen.

29 (c) The commissioner shall establish a billing and reimbursement
30 system for services provided by SCHOOL DISTRICTS AND evaluators approved
31 pursuant to the provisions of this subdivision consistent with billing
32 and reimbursement for evaluation services provided by evaluators
33 approved pursuant to the provisions of subdivision nine of this section.

34 S 47. Paragraph c of subdivision 1 of section 4410-b of the education
35 law, as added by chapter 6 of the laws of 2000, is amended to read as
36 follows:

37 c. "IEP team" means a committee on special education, [a subcommittee
38 on special education,] OR a committee on preschool special education [or
39 a subcommittee on preschool special education].

40 S 48. This act shall take effect July 1, 2012, provided that in the
41 event this act shall become a law after such date, it shall take effect
42 immediately and shall be deemed to have been in full force and effect on
43 and after July 1, 2012 and provided further, that nothing in section
44 twelve of this act shall be construed to require the retrofitting of
45 school buses purchased prior to the effective date of this act, and
46 provided further that:

47 (a) the amendments to paragraph a of subdivision 14 of section 305 of
48 the education law made by section five of this act shall be subject to
49 the expiration and reversion of such paragraph pursuant to chapter 698
50 of the laws of 1996, as amended, when upon such date the provisions of
51 section five-a of this act shall take effect;

52 (b) the amendments to paragraph e of subdivision 14 of section 305 of
53 the education law made by section six of this act shall not affect the
54 repeal of such paragraph and shall be deemed repealed therewith;

1 (c) the amendments to subdivision 1-b of the general municipal law
2 made by section eight of this act shall not affect the repeal of such
3 subdivision and shall be deemed repealed therewith;

4 (d) the amendments to subdivision 2 of section 103 of the general
5 municipal law made by section ten of this act shall be subject to the
6 expiration and reversion of such subdivision pursuant to section 41 of
7 part X of chapter 62 of the laws of 2003, as amended, when upon such
8 date the provisions of section ten-a of this act shall take effect;

9 (e) the amendments to subparagraph (2) of paragraph (b) of subdivision
10 4 of section 2590-b of the education law made by section seventeen of
11 this act shall not affect the repeal of such subdivision and shall be
12 deemed repealed therewith;

13 (f) the amendments to paragraph (a) of subdivision 4 of section 2853
14 of the education law made by section eighteen of this act shall be
15 subject to the expiration and reversion of such paragraph pursuant to
16 chapter 378 of the laws of 2007, as amended, when upon such date the
17 provisions of section eighteen-a of this act shall take effect;

18 (g) the amendments to subdivision 2 of section 3602-c of the education
19 law made by section nineteen of this act shall not affect the expiration
20 of such subdivision and shall be deemed to expire therewith;

21 (h) the amendments to subdivision 7 of section 3602-c of the education
22 law made by section twenty of this act shall not affect the repeal of
23 such subdivision and shall be deemed repealed therewith;

24 (i) the amendments to subparagraph (2) of paragraph b of subdivision 1
25 of section 4402 of the education law made by section thirty of this act
26 shall be subject to the expiration and reversion of such subparagraph
27 pursuant to chapter 352 of the laws of 2005, as amended, when upon such
28 date the provisions of section thirty-a of this act shall take effect;

29 (j) the amendments to clause (b) of subparagraph (1) of paragraph b of
30 subdivision 1 of section 4402 of the education law made by section thir-
31 ty-six of this act shall be subject to the expiration and reversion of
32 such clause pursuant to chapter 378 of the laws of 2007, as amended,
33 when upon such date the provisions of section thirty-six-a of this act
34 shall take effect;

35 (k) the amendments to paragraph a of subdivision 1 of section 4404 of
36 the education law made by section forty-three of this act shall not
37 affect the expiration and reversion of such subdivision and shall be
38 deemed to expire therewith; and

39 (l) the amendments to subparagraph (1) of paragraph a of subdivision 3
40 of section 4410 of the education law made by section forty-four of this
41 act shall be subject to the expiration and reversion of such subpara-
42 graph pursuant to chapter 378 of the laws of 2007, as amended, when upon
43 such date the provisions of section forty-four-a of this act shall take
44 effect.