S T A T E O F N E W Y O R K

7722--A

I N S E N A T E

June 15, 2012

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

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

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

Section 1. Subclause (i) of clause (b) of subparagraph 3 of paragraph b of subdivision 1 of section 4402 of the education law, as amended by chapter 378 of the laws of 2007, is amended to read as follows:

(i) Make recommendations based upon a written evaluation setting forth the reasons for the recommendations, to the child's parent or person in parental relation and board of education or trustees as to appropriate educational programs and placement in accordance with the provisions of subdivision six of section forty-four hundred one-a of this article, and as to the advisability of continuation, modification, or termination of special class or program placements which evaluation shall be furnished to the child's parent or person in parental relation together with the recommendations provided, however that the committee may recommend a placement in a school which uses psychotropic drugs only if such school has a written policy pertaining to such use that is consistent with subdivision four-a of section thirty-two hundred eight of this chapter and that the parent or person in parental relation is given such written policy at the time such recommendation is made. THE DETERMINATION OF APPROPRIATE EDUCATIONAL PROGRAMS AND PLACEMENTS SHALL INCLUDE, UPON A REQUEST BY A CHILD'S PARENT OR PERSON IN PARENTAL RELATION, A DETERMINATION OF THE CHILD'S ABILITY TO LEARN IN ANY GIVEN EDUCATIONAL ENVIRONMENT. SUCH DETERMINATION SHALL TAKE INTO ACCOUNT ANY POSSIBLE EDUCATIONAL IMPACT DIFFERENCES BETWEEN THE SCHOOL ENVIRONMENT AND THE CHILD'S HOME ENVIRONMENT AND FAMILY BACKGROUND MAY HAVE ON THE CHILD'S ABILITY TO RECEIVE A FREE APPROPRIATE PUBLIC EDUCATION. SUCH DETERMINATION SHALL INCLUDE DOCUMENTATION AS TO WHETHER THESE FACTORS WOULD AFFECT THE CHILD'S ABILITY TO LEARN. If such recommendation is not acceptable to

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

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

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

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

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