

5557

2013-2014 Regular Sessions

I N S E N A T E

May 20, 2013

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 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, in relation to the 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 education law and the general municipal law, in relation to giving school districts or boards of cooperative educational services the option of advertising procurement bids in the state's opportunities newsletter; to amend the environmental conservation law, in relation to the state smart growth public infrastructure criteria; to amend the vehicle and traffic law, in relation to school omnibus signs complying with federal

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

LBD10264-01-3

motor vehicle safety standards; to repeal paragraph d of subdivision 4 of section 3641 of the education law relating to special apportionments 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 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; and 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

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

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

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

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

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

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

OO. AT THE REQUEST OF ONE OR MORE SCHOOL DISTRICTS, CONTRACT FOR THE PROCUREMENT OF TELECOMMUNICATIONS EQUIPMENT ON BEHALF OF SUCH SCHOOL DISTRICTS, SUBJECT TO THE REQUIREMENTS OF SECTION ONE HUNDRED THREE AND SECTION ONE HUNDRED FOUR-B OF THE GENERAL MUNICIPAL LAW, PROVIDED THAT THE COSTS OF SUCH CONTRACTS SHALL BE ELIGIBLE FOR AID PURSUANT TO SUBDIVISION FIVE OF THIS SECTION IF APPROVED BY THE COMMISSIONER AS AN AIDABLE SHARED SERVICE UPON REQUEST OF TWO OR MORE COMPONENT SCHOOL DISTRICTS.

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

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

14 S 4. Paragraph d of subdivision 4 of section 3641 of the education law
15 is REPEALED.

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

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

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

37 S 6. Paragraph a of subdivision 14 of section 305 of the education
38 law, as amended by section 2 of chapter 273 of the laws of 1999, is
39 amended to read as follows:

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

tion, maintenance, mobile instructional units, or cafeteria and restaurant service shall be in such form as the commissioner may prescribe. Advertisement for bids shall be published in a newspaper or newspapers designated by the board of education or trustee of the district having general circulation within the district for such purpose OR IN THE STATE'S PROCUREMENT OPPORTUNITIES NEWSLETTER IN ACCORDANCE WITH ARTICLE FOUR-C OF THE ECONOMIC DEVELOPMENT LAW. Such advertisement shall contain a statement of the time when and place where all bids received pursuant to such advertisement will be publicly opened and read either by the school authorities or by a person or persons designated by them. All bids received shall be publicly opened and read at the time and place so specified. At least five days shall elapse between the first publication of such advertisement and the date so specified for the opening and reading of bids. The requirement for competitive bidding shall not apply to annual, biennial, or triennial extensions of a contract nor shall the requirement for competitive bidding apply to quadrennial or quinquennial year extensions of a contract involving transportation of pupils, maintenance of school buses or mobile instructional units OR THE PROVISION, MAINTENANCE AND OPERATION OF CAFETERIA OR RESTAURANT SERVICE secured through competitive bidding when such extensions (1) are made by the board of education or the trustee of a district, under rules and regulations prescribed by the commissioner, and, (2) do not extend the original contract period beyond five years from the date cafeteria and restaurant service commenced thereunder and in the case of contracts for the transportation of pupils, for the maintenance of school buses or for mobile instructional units, that such contracts may be extended, except that power is hereby vested in the commissioner, in addition to his existing statutory authority to approve or disapprove transportation or maintenance contracts, (i) to reject any extension of a contract beyond the initial term thereof if he finds that amount to be paid by the district to the contractor in any year of such proposed extension fails to reflect any decrease in the regional consumer price index for the N.Y., N.Y.-Northeastern, N.J. area, based upon the index for all urban consumers (CPI-U) during the preceding twelve month period; and (ii) to reject any extension of a contract after ten years from the date transportation or maintenance service commenced thereunder, or mobile instructional units were first provided, if in his opinion, the best interests of the district will be promoted thereby. Upon such rejection of any proposed extension, the commissioner may order the board of education or trustee of the district to seek, obtain and consider bids pursuant to the provisions of this section. The board of education or the trustee of a school district electing to extend a contract as provided herein, may, in its discretion, increase the amount to be paid in each year of the contract extension by an amount not to exceed the regional consumer price index increase for the N.Y., N.Y.-Northeastern, N.J. area, based upon the index for all urban consumers (CPI-U), during the preceding twelve month period, provided it has been satisfactorily established by the contractor that there has been at least an equivalent increase in the amount of his cost of operation, during the period of the contract.

S 7. Paragraph e of subdivision 14 of section 305 of the education law, as amended by chapter 464 of the laws of 1997, is amended to read as follows:

e. Notwithstanding the provisions of any general, special or local law or charter, a board of education or a trustee of a district, pursuant to rules and regulations promulgated by the commissioner, may award a

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

19 S 8. Subdivision 14 of section 305 of the education law is amended by
20 adding a new paragraph g to read as follows:

21 G. NOTWITHSTANDING THE PROVISIONS OF THIS SUBDIVISION, SECTION ONE
22 HUNDRED THREE OF THE GENERAL MUNICIPAL LAW, OR ANY OTHER PROVISION OF
23 LAW TO THE CONTRARY, THE BOARD OF EDUCATION SHALL BE AUTHORIZED TO ENTER
24 INTO A PIGGYBACK CONTRACT WITH ANOTHER SCHOOL DISTRICT THAT TRANSPORTS
25 STUDENTS PURSUANT TO A CONTRACT WITH A PRIVATE TRANSPORTATION CONTRAC-
26 TOR, PROVIDED THAT THE BOARD FINDS THAT THE CONTRACT COST IS APPROPRIATE
27 AND ENTRY INTO A PIGGYBACK CONTRACT WILL RESULT IN A COST SAVINGS TO THE
28 SCHOOL DISTRICT. FOR PURPOSES OF THIS PARAGRAPH, A "PIGGYBACK CONTRACT"
29 MEANS A CONTRACT FOR THE TRANSPORTATION OF STUDENTS THAT: (1) PROVIDES
30 TRANSPORTATION TO A LOCATION OUTSIDE THE STUDENTS' SCHOOL DISTRICT OF
31 RESIDENCE TO WHICH ANOTHER SCHOOL DISTRICT IS ALREADY PROVIDING TRANS-
32 PORTATION TO ITS OWN STUDENTS THROUGH AN EXISTING CONTRACT WITH A
33 PRIVATE TRANSPORTATION CONTRACTOR, OTHER THAN A COOPERATIVELY BID
34 CONTRACT; (2) IS ENTERED INTO BY THE PRIVATE TRANSPORTATION CONTRACTOR
35 AND EACH SCHOOL DISTRICT INVOLVED; AND (3) PROVIDES FOR TRANSPORTATION
36 IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF SUCH EXISTING TRANSPORTA-
37 TION CONTRACT.

38 S 9. Subdivision 2 of section 103 of the general municipal law, as
39 amended by section 4 of chapter 608 of the laws of 2011, is amended to
40 read as follows:

41 2. Advertisement for bids and offers shall be published in the offi-
42 cial newspaper or newspapers, if any, or otherwise in a newspaper or
43 newspapers designated for such purpose OR IN THE STATE'S PROCUREMENT
44 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 notice will be publicly opened and read and where the identity of all
48 offerers will be publicly disclosed, and the designation of the receiv-
49 ing device if the political subdivision or district has authorized the
50 receipt of bids and offers in an electronic format. Such board or agency
51 may by resolution designate any officer or employee to open the bids and
52 offers at the time and place specified in the notice. Such designee
53 shall make a record of such bids and offers in such form and detail as
54 the board or agency shall prescribe and present the same at the next
55 regular or special meeting of such board or agency. All bids received
56 shall be publicly opened and read at the time and place so specified and

1 the identity of all offerers shall be publicly disclosed at the time and
2 place so specified. At least five days shall elapse between the first
3 publication of such advertisement and the date so specified for the
4 opening and reading of bids and offers.

5 S 10. Subdivision 2 of section 103 of the general municipal law, as
6 amended by section 5 of chapter 608 of the laws of 2011, is amended to
7 read as follows:

8 2. Advertisement for bids and offers shall be published in the offi-
9 cial newspaper or newspapers, if any, or otherwise in a newspaper or
10 newspapers designated for such purpose OR IN THE STATE'S PROCUREMENT
11 OPPORTUNITIES NEWSLETTER IN ACCORDANCE WITH ARTICLE FOUR-C OF THE
12 ECONOMIC DEVELOPMENT LAW. Such advertisement shall contain a statement
13 of the time when and place where all bids received pursuant to such
14 notice will be publicly opened and read and where the identity of all
15 offerers will be publicly disclosed. Such board or agency may by resol-
16 ution designate any officer or employee to open the bids and offers at
17 the time and place specified in the notice. Such designee shall make a
18 record of such bids and offers in such form and detail as the board or
19 agency shall prescribe and present the same at the next regular or
20 special meeting of such board or agency. All bids received shall be
21 publicly opened and read at the time and place so specified and the
22 identity of all offerers shall be publicly disclosed at the time and
23 place so specified. At least five days shall elapse between the first
24 publication of such advertisement and the date so specified for the
25 opening and reading of bids and offers.

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

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

45 S 12. Subparagraph 1 of paragraph (b) and paragraphs (c) and (d) of
46 subdivision 20 of section 375 of the vehicle and traffic law, subpara-
47 graph 1 of paragraph (b) as amended by chapter 242 of the laws of 1992,
48 paragraph (c) as amended by chapter 96 of the laws of 1973 and paragraph
49 (d) as amended by chapter 567 of the laws of 1985, are amended to read
50 as follows:

51 (1) In addition to such signal lamps, two signs shall be conspicuously
52 displayed on the exterior of every such omnibus designating it as a
53 school omnibus by the use of the words "SCHOOL BUS" which shall be
54 painted or otherwise inscribed thereon in black letters. Such letters
55 shall be of uniform size, at least eight inches in height, and each
56 stroke of each letter shall be not less than one inch in width. The

1 background of each such sign shall be painted [the color known as
2 "national school bus chrome."] ON A BACKGROUND OF RETRO REFLECTIVE
3 NATIONAL SCHOOL BUS YELLOW MATERIAL. THE MATERIAL SHALL BE THE SAME
4 QUALITY AND TYPE AS FEDERAL MOTOR VEHICLE SAFETY STANDARDS REQUIRE FOR
5 THE MARKING OF EMERGENCY EXITS. For each such omnibus having a seating
6 capacity in excess of fifteen children, such signs shall be securely
7 mounted on top of such vehicle, one of which shall be affixed on the
8 front and one on the rear thereof. For each such omnibus having a seat-
9 ing capacity of not more than fifteen children, such signs shall be
10 securely mounted on top of such vehicle, one of which shall face the
11 front and one of which shall face the rear thereof. Each such sign shall
12 be visible and readable from a point at least two hundred feet distant.

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

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

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

31 S 14. The commissioner of education, in consultation with the office
32 of the state comptroller, shall conduct a study of the feasibility and
33 desirability of authorizing school districts and boards of cooperative
34 educational services to enter national credit card contracts as a cost-
35 saving measure, with appropriate safeguards. The commissioner of educa-
36 tion shall submit a report to the board of regents, the governor and the
37 legislature by no later than January 15, 2014, with recommendations on
38 whether and under what conditions such credit card contracts should be
39 authorized and identifying any legislative or regulatory changes that
40 would be needed to authorize such credit card contracts.

41 S 15. Subparagraph 2 of paragraph (b) of subdivision 4 of section
42 2590-b of the education law, as amended by chapter 345 of the laws of
43 2009, is amended to read as follows:

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

47 S 16. Paragraph (a) of subdivision 4 of section 2853 of the education
48 law, as amended by chapter 378 of the laws of 2007, is amended to read
49 as follows:

50 (a) For purposes of sections seven hundred one, seven hundred eleven,
51 seven hundred fifty-one and nine hundred twelve of this chapter, a char-
52 ter school shall be deemed a nonpublic school in the school district
53 within which the charter school is located. Special education programs
54 and services shall be provided to students with a disability attending a
55 charter school in accordance with the individualized education program
56 recommended by the committee [or subcommittee] on special education of

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

11 S 17. Paragraph (a) of subdivision 4 of section 2853 of the education
12 law, as added by chapter 4 of the laws of 1998, is amended to read as
13 follows:

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

25 S 18. Paragraph a of subdivision 1 and paragraph a and subparagraph 1
26 of paragraph b of subdivision 2 of section 3602-c of the education law,
27 paragraph a of subdivision 1 as amended by chapter 474 of the laws of
28 2004, paragraph a and subparagraph 1 of paragraph b of subdivision 2 as
29 amended by chapter 378 of the laws of 2007, are amended and a new para-
30 graph e is added to subdivision 2 to read as follows:

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

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

1 sand seven--two thousand eight school year only,] FOR THOSE STUDENTS FOR
2 WHOM AN INDIVIDUALIZED EDUCATION SERVICE PROGRAM WAS DEVELOPED AND
3 IMPLEMENTED PURSUANT TO THIS SECTION PRIOR TO SUCH DATE, AND ON OR
4 BEFORE THE FIRST OF JUNE PRECEDING THE SCHOOL YEAR FOR WHICH THE REQUEST
5 IS MADE FOR THOSE STUDENTS WHO WILL BE FIRST RECEIVING EDUCATION FOR
6 STUDENTS WITH DISABILITIES PURSUANT TO THIS SECTION IN THE SCHOOL YEAR
7 FOR WHICH THE REQUEST IS MADE OR FOR WHOM AN INDIVIDUALIZED EDUCATION
8 SERVICE PROGRAM IS FIRST DEVELOPED AND IMPLEMENTED ON OR AFTER APRIL
9 FIRST AND ON OR BEFORE JUNE FIRST; provided that where a student is
10 first identified as a student with a disability after the first day of
11 June preceding the school year for which the request is made, [or thirty
12 days after the chapter of the laws of two thousand seven which amended
13 this paragraph, takes effect where applicable, and prior to the first
14 day of April of such current school year,] such request shall be submit-
15 ted within thirty days after AN INDIVIDUALIZED EDUCATION SERVICE PROGRAM
16 IS DEVELOPED FOR such student [is first identified. For students first
17 identified after March first of the current school year, any such
18 request for education for students with disabilities in the current
19 school year that is submitted on or after April first of such current
20 school year, shall be deemed a timely request for such services in the
21 following school year].

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

49 E. A NONPUBLIC SCHOOL STUDENT WHOSE DISABILITY IS SEVERE ENOUGH TO
50 EXHIBIT THE NEED FOR A STRUCTURED LEARNING ENVIRONMENT OF TWELVE MONTHS
51 DURATION TO MAINTAIN DEVELOPMENTAL LEVELS SHALL BE ELIGIBLE TO RECEIVE
52 SPECIAL EDUCATION PROGRAMS AND SERVICES IN JULY AND AUGUST IN ACCORDANCE
53 WITH THE INDIVIDUALIZED EDUCATION SERVICE PROGRAM DEVELOPED BY THE
54 COMMITTEE ON SPECIAL EDUCATION OF THE SCHOOL DISTRICT OF LOCATION AND
55 THE PROVISIONS OF SECTION FORTY-FOUR HUNDRED EIGHT OF THIS CHAPTER.
56 PROVIDED, HOWEVER, THAT DURING A JULY/AUGUST SPECIAL EDUCATION PROGRAM,

1 A NONPUBLIC SCHOOL STUDENT SHALL NOT BE ENTITLED PURSUANT TO THIS
2 SECTION TO PLACEMENT IN A SPECIAL CLASS OR INTEGRATED CO-TEACHING
3 SERVICES, AS SUCH TERMS ARE DEFINED IN THE REGULATIONS OF THE COMMIS-
4 SIONER. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE
5 SCHOOL DISTRICT OF LOCATION SHALL BE ELIGIBLE FOR STATE AID FOR SUCH
6 SERVICES EXCLUSIVELY PURSUANT TO SECTION FORTY-FOUR HUNDRED EIGHT OF
7 THIS CHAPTER.

8 S 19. Subdivision 7 of section 3602-c of the education law, as amended
9 by chapter 378 of the laws of 2007, is amended to read as follows:

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

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

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

39 D. THE COMMISSIONER SHALL ESTABLISH REGIONAL RATE METHODOLOGIES FOR
40 COMPUTING REGIONAL RATES TO DETERMINE ACTUAL COSTS FOR EACH OF THE
41 FOLLOWING CATEGORIES OF COSTS: (I) COSTS OF SERVICES, (II) EVALUATIONS
42 AND (III) SPECIAL EDUCATION ADMINISTRATION. THE SCHOOL DISTRICT OF
43 LOCATION MAY ELECT TO USE ANY SUCH REGIONAL RATE METHODOLOGIES IN EFFECT
44 FOR THE CURRENT SCHOOL YEAR FOR ALL NONRESIDENT STUDENTS RECEIVING
45 SERVICES PURSUANT TO SUBDIVISION TWO OF THIS SECTION IN SUCH SCHOOL YEAR
46 OR MAY OPT TO COMPUTE ACTUAL COSTS ON AN INDIVIDUAL STUDENT BASIS. IF
47 SUCH SCHOOL DISTRICT ELECTS TO USE REGIONAL RATES FOR SERVICES, IT SHALL
48 USE ALL REGIONAL RATES THEN IN EFFECT FOR BILLING SERVICES FOR ALL SUCH
49 NONRESIDENT STUDENTS AND IF SUCH SCHOOL DISTRICT ELECTS TO USE REGIONAL
50 RATES FOR BILLING EVALUATION OR SPECIAL EDUCATION ADMINISTRATION COSTS,
51 IT SHALL USE SUCH RATES FOR BILLING FOR SUCH COSTS FOR ALL SUCH NONRESI-
52 DENT STUDENTS. THE SCHOOL DISTRICT OF LOCATION MAY, HOWEVER, ELECT TO
53 USE REGIONAL RATES FOR ONE OR MORE CATEGORIES OF COSTS, AND NOT FOR THE
54 OTHER CATEGORIES.

55 E. NO CLAIM SHALL BE PAYABLE PURSUANT TO THIS SUBDIVISION UNLESS IT IS
56 SUBMITTED TO THE SCHOOL DISTRICT OF RESIDENCE, OR THE COMMISSIONER WHERE

1 APPLICABLE, WITHIN ONE YEAR OF THE END OF THE SCHOOL YEAR IN WHICH THE
2 COSTS WERE INCURRED, OR WITHIN SIXTY DAYS OF THE EFFECTIVE DATE OF THIS
3 PARAGRAPH, WHICHEVER IS LATER.

4 S 20. Paragraph e of subdivision 2 of section 4002 of the education
5 law, as added by chapter 563 of the laws of 1980, is amended to read as
6 follows:

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

11 S 21. Subdivision 2 of section 4201 of the education law is amended to
12 read as follows:

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

14 a. To inquire into the organization of the several schools and the
15 methods of instruction employed therein.

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

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

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

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

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

32 S 22. Section 4203 of the education law is amended to read as follows:

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

51 S 23. Subdivision 3 of section 4204 of the education law, as amended
52 by section 51 of part A of chapter 58 of the laws of 2011, is amended to
53 read as follows:

54 3. The regular term of instruction of any such deaf pupil shall be
55 twelve years, or until the pupil shall have attained the age of eighteen
56 years before the expiration of twelve years from the beginning of such

term. The [commissioner] COMMITTEE ON SPECIAL EDUCATION may, in [his] ITS discretion, [extend] RECOMMEND AN EXTENSION OF the term of any pupil until [his] THE DATE OF THE SCHOOL YEAR IN WHICH THE PUPIL'S twenty-first birthday OCCURS AND SUCH PUPIL'S ELIGIBILITY ENDS PURSUANT TO SUBDIVISION FIVE OF SECTION FORTY-FOUR HUNDRED TWO OF THIS ARTICLE for the purpose of pursuing or completing academic or vocational courses of study. Such pupils must be recommended by the trustees of the institution in which they are in attendance before THE COMMITTEE RECOMMENDS THAT such extension of time [is granted] BE MADE.

S 24. Section 4206 of the education law, as amended by chapter 53 of the laws of 1990, is amended to read as follows:

S 4206. Persons eligible for [appointment] ENROLLMENT as pupils [to] IN institutions for instruction of the blind. 1. All blind persons of suitable age and capacity and who shall have been residents in this state for one year immediately preceding the application or, if a minor, whose parent or parents, or, if an orphan, whose nearest friend, shall have been a resident in this state for one year immediately preceding the application, shall be eligible for [appointment] ENROLLMENT as [state] pupils to the New York Institute for Special Education in the city of New York or the Lavelle School for the Blind in the city of New York.

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

3. [All such appointments shall be made by the commissioner of education.] The requirement of this section as to length of residence in this state may be waived in the discretion of the commissioner [of education].

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

S 25. Subdivisions 3 and 4 of section 4207 of the education law, as amended by section 54 of part A of chapter 58 of the laws of 2011, are amended to read as follows:

3. The regular term of instruction of any such blind pupil in the New York Institute for Special Education shall be eight years. The [commissioner] COMMITTEE ON SPECIAL EDUCATION OF THE SCHOOL DISTRICT RESPONSIBLE FOR THE EDUCATION OF THE PUPIL, WITH THE CONSENT OF THE TRUSTEES OF THE NEW YORK INSTITUTE FOR SPECIAL EDUCATION, may in [his] ITS discretion [extend] RECOMMEND THE EXTENSION OF the term of any pupil for a period not exceeding three years. It shall also be lawful for the [commissioner] COMMITTEE to continue such pupils [as state pupils] for an additional period of three years for the purpose of pursuing or completing a course of high school study[; such pupils must be recom-

1 mended by the trustees of the New York Institute for Special Education
2 before such extension is granted].

3 4. The term of appointment for blind babies and children of the age of
4 fifteen years and under received into any institution in accordance with
5 this article shall be at the discretion of the [commissioner] THE
6 COMMITTEE ON SPECIAL EDUCATION OR PRESCHOOL COMMITTEE ON SPECIAL EDUCA-
7 TION OF THE SCHOOL DISTRICT RESPONSIBLE FOR THE EDUCATION OF THE STUDENT
8 AND THE TRUSTEES OF THE NEW YORK INSTITUTE FOR SPECIAL EDUCATION.

9 S 26. Section 4213 of the education law, as added by chapter 496 of
10 the laws of 1986, is amended to read as follows:

11 S 4213. Other persons eligible for [appointment] ENROLLMENT. In
12 accordance with the provisions of the charter of the New York Institute
13 for Special Education, and amendments thereto, as issued by the board of
14 regents, children with [handicapping conditions] DISABILITIES, other
15 than [handicapping conditions] DISABILITIES which would establish eligi-
16 bility for [appointment] ENROLLMENT to the schools enumerated in this
17 article, shall be eligible for [appointment] ENROLLMENT to the New York
18 Institute for Special Education as [state] pupils. The provisions of
19 this article shall apply but not necessarily be limited to the [appoint-
20 ment] ENROLLMENT, education, maintenance and support of such pupils.
21 Such pupils eligible for [appointment] ENROLLMENT, pursuant to this
22 section, shall be persons over five and under twenty-one years of age
23 who have not received a high school diploma.

24 S 27. Paragraph d of subdivision 2 of section 4401 of the education
25 law, as amended by chapter 53 of the laws of 1990, is amended to read as
26 follows:

27 d. Appointment by the commissioner to a state school in accordance
28 with article eighty-seven or eighty-eight of this chapter or ENROLLMENT
29 IN a state-supported school in accordance with article eighty-five of
30 this chapter.

31 S 28. Subparagraph 2 of paragraph b of subdivision 1 of section 4402
32 of the education law, as amended by chapter 352 of the laws of 2005, is
33 amended to read as follows:

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

40 S 29. Subparagraph 2 of paragraph b of subdivision 1 of section 4402
41 of the education law, as amended by chapter 82 of the laws of 1995, is
42 amended to read as follows:

43 (2) Such committees [or subcommittees] shall identify, review and
44 evaluate at least annually, the status of each child with a [handicap-
45 ping condition] DISABILITY and each child thought to [be handicapped]
46 HAVE A DISABILITY who resides within the school district. Such review
47 shall consider the educational progress and achievement of the child
48 with a [handicapping condition] DISABILITY and the child's ability to
49 participate in instructional programs in regular education.

50 S 30. Subparagraph 2 of paragraph b of subdivision 2 of section 4402
51 of the education law, as amended by chapter 391 of the laws of 1989, is
52 amended to read as follows:

53 (2) The board shall select the most reasonable and appropriate special
54 service or program for such children from those programs specified in
55 paragraphs a, b, c, D WITH RESPECT TO STATE SUPPORTED SCHOOLS, e, f, g,
56 h, i, k, l and m of subdivision two of section forty-four hundred one of

1 this article upon receipt of the recommendation of the committee on
2 special education. All contracts with schools pursuant to the provisions
3 of paragraphs d, e, f, g, h, l and m of subdivision two of section
4 forty-four hundred one of this article shall be subject to the approval
5 of the commissioner. All contracts under paragraph c of subdivision two
6 of section forty-four hundred one OF THIS ARTICLE shall be made in
7 accordance with the provisions of subdivision four of section nineteen
8 hundred fifty of this chapter. No child shall be placed in a residential
9 school nor shall a board recommend placement in a residential facility
10 specified in paragraph j of subdivision two of section forty-four
11 hundred one OF THIS ARTICLE unless there is no appropriate nonresiden-
12 tial school available consistent with the needs of the child. The board
13 shall provide written notice of its determination to the parent or legal
14 guardian of such child. If the determination of the board of education
15 is not consistent with the recommendations of the committee on special
16 education, such notice shall include the statement of the reasons for
17 such determination which shall identify the factors considered by the
18 committee on special education in its evaluation.

19 S 31. The opening paragraph of subparagraph 3 and subparagraph 3-a of
20 paragraph b of subdivision 1 of section 4402 of the education law, the
21 opening paragraph of subparagraph 3 as amended by chapter 53 of the laws
22 of 1991 and subparagraph 3-a as added by chapter 630 of the laws of
23 2008, are amended to read as follows:

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

25 (3-a) The members of the committee [or subcommittee] may compile a
26 list of appropriate and/or helpful services that may be available
27 outside of the school setting to provide the parents or person in
28 parental relation of a child with a disability with such information.
29 Such list shall clearly state that these services are in addition to
30 services supplied by the school district and will not be paid for by the
31 school district. Any member of a committee [or subcommittee] or his or
32 her respective school district who, acting reasonably and in good faith,
33 provides such information shall not be liable for such action.

34 S 32. Clause h of subparagraph 3 of paragraph b of subdivision 1 of
35 section 4402 of the education law is REPEALED.

36 S 33. Subdivisions 8 and 9 of section 4403 of the education law, as
37 amended by chapter 273 of the laws of 1986, are amended to read as
38 follows:

39 8. To develop and distribute a handbook for parents of [handicapped]
40 children WITH DISABILITIES and the members of committees [and subcommit-
41 tees] on special education, which handbook shall explain, in layman
42 terms, the financial and educational obligations of the state, the coun-
43 ty or city, the home school district, the committee on special educa-
44 tion, and the parent or legal guardian of a [handicapped] child WITH A
45 DISABILITY, the special services or programs available pursuant to this
46 article, and the legal procedures available to an aggrieved parent or
47 legal guardian of a [handicapped] child WITH A DISABILITY.

48 9. To make provision by regulation of the commissioner to assure the
49 confidentiality of any personally identifiable data, information, and
50 records collected or maintained by the state department of education or
51 any school district, including a committee [or subcommittee] on special
52 education, and the officers, employees or members thereof, pursuant to
53 or in furtherance of the purposes of this article, and shall establish
54 procedures upon which any such personally identifiable data, informa-
55 tion, or records may be disclosed.

1 S 34. Subdivision 16 of section 4403 of the education law, as amended
2 by section 4 of part E of chapter 501 of the laws of 2012, is amended to
3 read as follows:

4 16. Commencing with the nineteen hundred eighty-seven--eighty-eight
5 school year, to provide for instruction during the months of July and
6 August of students with [handicapping conditions] DISABILITIES who have
7 received state appointments pursuant to article [eighty-five,] eighty-
8 seven or eighty-eight of this chapter, and whose [handicapping condi-
9 tions, in the judgment of the commissioner,] DISABILITIES are severe
10 enough to exhibit the need for a structured learning environment of
11 twelve months duration to maintain developmental levels, by making such
12 appointments for twelve months; provided that the initial term of
13 appointment of a student with a [handicapping condition] DISABILITY who
14 is the minimum age eligible for such a state appointment shall not
15 commence during the months of July or August.

16 S 35. The opening paragraph and clauses (a), (b) and (c) of subpara-
17 graph 1 of paragraph b of subdivision 1 of section 4402 of the education
18 law, the opening paragraph and clauses (a) and (c) as amended by chapter
19 311 of the laws of 1999, subclause (viii) of clause (a) as amended by
20 chapter 194 of the laws of 2004, clause (b) as amended by section 1 of
21 chapter 276 of the laws of 2012 and the closing paragraph of clause (b)
22 as amended by chapter 378 of the laws of 2007, are amended to read as
23 follows:

24 The board of education or trustees of each school district shall
25 establish committees [and/or subcommittees] on special education as
26 necessary to ensure timely evaluation and placement of pupils. The board
27 of education of the city school district of the city of New York, shall
28 establish at least one committee on special education in each of its
29 community school districts, provided that appointments to the community
30 school district committees shall be made upon the approval of the commu-
31 nity school board except that the board of education of the city school
32 district of the city of New York, may establish one committee to serve
33 more than one community school district, in which case, appointments
34 thereto shall be made upon the joint approval of the affected community
35 school boards; provided, however, that prior to such consolidation, the
36 board shall consider the relative caseload of the committee on special
37 education in each affected community school district, including but not
38 limited to the following factors: the number of students evaluated by
39 such committee; the number of referrals to special education in such
40 community school district; the ability to comply with mandated paperwork
41 and timelines; and other issues which the board deems pertinent.

42 (a) Such committees shall be composed of at least the following
43 members: (i) the parents or persons in parental relationship to the
44 student; (ii) one regular education teacher of the student whenever the
45 student is or may be participating in the regular education environment;
46 (iii) one special education teacher of the student, or, if appropriate,
47 a special education provider of the student; (iv) a school psychologist
48 WHERE THE PURPOSE OF THE METING IS TO DETERMINE A STUDENT'S INITIAL
49 ELIGIBILITY FOR SPECIAL EDUCATION; (v) a representative of such school
50 district who is qualified to provide or administer or supervise special
51 education and is knowledgeable about the general curriculum and the
52 availability of resources of the school district; (vi) an individual who
53 can interpret the instructional implications of evaluation results;
54 (vii) [a school physician; (viii)] an additional parent, residing in the
55 school district or a neighboring school district, of a student with a
56 disability, of a student who has been declassified and is no longer

1 eligible for an individualized education program (IEP), or a parent of a
2 disabled child who has graduated, for a period of five years beyond the
3 student's declassification or graduation, provided such parent shall not
4 be employed by or under contract with the school district, and provided
5 further that such additional parent shall not be a required member [if]
6 UNLESS the parents, THE STUDENT OR A MEMBER OF THE COMMITTEE ON SPECIAL
7 EDUCATION request that such additional parent member [not] participate
8 IN ACCORDANCE WITH CLAUSE (B) OF THIS SUBPARAGRAPH; [(ix)] (VIII) such
9 other persons having knowledge or special expertise regarding the
10 student as the school district or the parents or persons in parental
11 relationship to the student shall designate, to the extent required
12 under federal law; and [(x)] (IX) if appropriate, the student.

13 (b) In determining the composition of such committee pursuant to
14 clause (a) of this subparagraph, a school district may determine that a
15 member appointed pursuant to one of subclause (ii), (iii), (iv), (v) or
16 [(ix)] (VIII) of clause (a) of this subparagraph also fulfills the
17 requirement of subclause (vi) of clause (a) of this subparagraph of a
18 member who is an individual who can interpret the instructional impli-
19 cations of evaluation results where such individuals are determined by
20 the school district to have the knowledge and expertise to do so and/or
21 that a member appointed pursuant to subclause (iii) or (iv) of clause
22 (a) of this subparagraph also fulfills the requirement of subclause (v)
23 of clause (a) of this subparagraph of a member who is a representative
24 of the school district. The regular education teacher of the student
25 shall participate in the development, review and revision of the indi-
26 vidualized education program for the student, to the extent required
27 under federal law. [The school physician need not be in attendance at
28 any meeting of the committee on special education unless specifically
29 requested in writing, at least seventy-two hours prior to such meeting
30 by the parents or other person in parental relation to the student in
31 question, the student, or a member of the committee on special educa-
32 tion. The parents or persons in parental relation of the student in
33 question shall receive proper written notice of their right to have the
34 school physician attend the meetings of the committee on special educa-
35 tion upon referral of said student to the committee on special education
36 or whenever such committee plans to modify or change the identification,
37 evaluation or educational placement of the student.] The additional
38 parent need not be in attendance at any meeting of the committee on
39 special education unless specifically requested in writing, at least
40 seventy-two hours prior to such meeting by the parents or other person
41 in parental relation to the student in question, the student, or a
42 member of the committee on special education. The parents or persons in
43 parental relation of the student in question shall receive proper writ-
44 ten notice of their right to have an additional parent attend any meet-
45 ing of the committee regarding the student along with a statement,
46 prepared by the department, explaining the role of having the additional
47 parent attend the meeting. The committee shall invite the appropriate
48 professionals most familiar with a student's disability or disabilities
49 to attend any meeting concerning the educational program for such
50 student. Except as otherwise provided in this clause or clause (b-1) or
51 (b-2) of this subparagraph, all members of such committee shall attend
52 meetings of the committee on special education.

53 Members of such committee shall serve at the pleasure of such board
54 and members who are neither employees of nor under contract with such
55 district shall serve without compensation except that such members shall
56 be entitled to a per diem to defray expenses incurred in such service,

provided, however, that any expense incurred shall be deemed an aidable operating expense for purposes of state aid.

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

S 36. Clause (b) of subparagraph 1 of paragraph b of subdivision 1 of section 4402 of the education law, as amended by section 2 of chapter 276 of the laws of 2012, is amended to read as follows:

(b) In determining the composition of such committee pursuant to clause (a) of this subparagraph, a school district may determine that a member appointed pursuant to one of subclause (ii), (iii), (iv), (v) or [(ix)] (VIII) of clause (a) of this subparagraph also fulfills the requirement of subclause (vi) of clause (a) of this subparagraph of a member who is an individual who can interpret the instructional implications of evaluation results where such individuals are determined by the school district to have the knowledge and expertise to do so and/or that a member appointed pursuant to subclause (iii) or (iv) of clause (a) of this subparagraph also fulfills the requirement of subclause (v) of clause (a) of this subparagraph of a member who is a representative of the school district. The regular education teacher of the student shall participate in the development, review and revision of the individualized education program for the student, to the extent required under federal law. [The school physician need not be in attendance at any meeting of the committee on special education unless specifically requested in writing, at least seventy-two hours prior to such meeting by the parents or other person in parental relationship to the student in question, the student, or a member of the committee on special education. The parents or persons in parental relationship of the student in question shall receive proper written notice of their right to have the school physician attend the meetings of the committee on special education upon referral of said student to the committee on special education or whenever such committee plans to modify or change the identification, evaluation or educational placement of the student.] The additional parent need not be in attendance at any meeting of the committee on special education unless specifically requested in writing, at least seventy-two hours prior to such meeting by the parents or other person in parental relation to the student in question, the student, or a member of the committee on special education. The parents or persons in parental relation of the student in question shall receive proper written notice of their right to have an additional parent attend any meeting of the committee regarding the student along with a statement, prepared by the department, explaining the role of having the additional parent attend the meeting. The committee shall invite the appropriate professionals most familiar with a student's disability or disabilities to attend any meeting concerning the educational program for such student. Members of such committee shall serve at the pleasure of such board and members who are neither employees of nor under contract with such district shall serve without compensation except that such members

1 shall be entitled to a per diem to defray expenses incurred in such
2 service, provided, however, that any expense incurred shall be deemed an
3 aidable operating expense for purposes of state aid.

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

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

8 S 39. Subparagraphs 5 and 7 of paragraph b of subdivision 1 of section
9 4402 of the education law, subparagraph 5 as amended by chapter 256 of
10 the laws of 1988 and subparagraph 7 as amended by chapter 194 of the
11 laws of 1991, are amended to read as follows:

12 (5) The committee on special education or, in the case of a state
13 operated school, the multidisciplinary team shall [provide written
14 notice that a child who is placed in those residential programs speci-
15 fied in paragraphs d, g, h and l of subdivision two of section forty-
16 four hundred one of this article is not entitled to receive tuition free
17 educational services after the age of twenty-one, the receipt of a high
18 school diploma or the time described in subdivision five of this
19 section. Such written notice shall be provided to the child and to the
20 parents or legal guardian of such child when such child attains the age
21 of eighteen or, if such child is over the age of eighteen when placed in
22 such a residential program, at the time of placement. Upon the first
23 annual review after the age of fifteen of a child who is receiving non-
24 residential special services or programs as specified in paragraph a, b,
25 c, d, e, f, i, j, l or m of subdivision two of section forty-four
26 hundred one of this article, or is receiving special services or
27 programs in a day program at the human resources school; is receiving
28 such special services or programs one hundred per centum of the school
29 day; is receiving individualized attention or intervention because of
30 intensive management needs or a severe handicap; and, as determined by
31 the committee on special education or multidisciplinary team pursuant to
32 regulations promulgated by the commissioner, may need adult services
33 from the office of mental health, office of mental retardation and
34 developmental disabilities, the state department of social services, a
35 social services district, or the state education department, the commit-
36 tee or multidisciplinary team shall provide to such child's parent or
37 guardian, and if such child is eighteen years of age or older, to the
38 child, written notice that such child is not entitled to receive tuition
39 free educational services after the receipt of a high school diploma,
40 the age of twenty-one or the time described in subdivision five of this
41 section.] NOT LATER THAN THE ANNUAL REVIEW PRIOR TO THE EIGHTEENTH
42 BIRTHDAY OF A STUDENT WITH A DISABILITY WHO IS PLACED IN A RESIDENTIAL
43 PROGRAM BY THE COMMITTEE OR MULTIDISCIPLINARY TEAM, OR A STUDENT WITH A
44 DISABILITY WHO IS PLACED IN A DAY PROGRAM BUT THE COMMITTEE OR MULTIDIS-
45 CIPLINARY TEAM HAS DETERMINED THAT THE STUDENT IT LIKELY TO REQUIRE
46 ADULT RESIDENTIAL SERVICES, WITH THE CONSENT OF THE PARENTS, NOTIFY AND
47 INVITE A REPRESENTATIVE OF THE OFFICE OF MENTAL HEALTH, OFFICE FOR
48 PEOPLE WITH DEVELOPMENTAL DISABILITIES, OR THE STATE EDUCATION DEPART-
49 MENT, AS APPROPRIATE, TO PARTICIPATE IN THE COMMITTEE ON SPECIAL EDUCA-
50 TION MEETING FOR THE DEVELOPMENT OF A RECOMMENDATION FOR ADULT SERVICES
51 PURSUANT TO SECTION 7.37 OR 13.37 OF THE MENTAL HYGIENE LAW, SECTION
52 THREE HUNDRED NINETY-EIGHT-C OF THE SOCIAL SERVICES LAW OR SECTION
53 FORTY-FOUR HUNDRED THREE OF THIS ARTICLE. THE COMMITTEE OR MULTIDISCI-
54 PLINARY TEAM SHALL GIVE THE PARENT OR GUARDIAN OF THE CHILD, THE OPPOR-
55 TUNITY TO CONSENT IN WRITING TO THE RELEASE OF RELEVANT INFORMATION TO
56 SUCH OTHER PUBLIC AGENCY OR AGENCIES, UPON REQUEST OF SUCH AGENCY OR

1 AGENCIES, FOR PURPOSES OF DETERMINING APPROPRIATENESS OF AN ADULT
2 PROGRAM FOR SUCH STUDENT.

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

27 (b) Upon consent obtained pursuant to [clause (c) of] this subpara-
28 graph, the committee or multidisciplinary team shall forward the
29 [child's] STUDENT'S name and other relevant information in a report to
30 the [commissioner of mental health, commissioner of mental retardation
31 and developmental disabilities, commissioner of social services, or
32 commissioner of education, or their designees, for the development of a
33 recommendation for adult services pursuant to section 7.37 or 13.37 of
34 the mental hygiene law, section three hundred ninety-eight-c of the
35 social services law or subdivision ten of section forty-four hundred
36 three of this article. The] APPROPRIATE PUBLIC AGENCY AS DETERMINED BY
37 THE committee or multidisciplinary team [shall determine which commis-
38 sioner shall receive the report by considering], BASED UPON the [child's
39 handicapping condition] STUDENT'S DISABILITY and physical, mental,
40 emotional and social needs. The committee shall forward additional and
41 updated relevant information to the [commissioner of mental health,
42 commissioner of mental retardation and developmental disabilities,
43 commmissioner of social services, or commissioner of education, or their
44 designees,] APPROPRIATE PUBLIC AGENCY upon the request for such informa-
45 tion by such [commissioner or designee] AGENCY, WITH THE CONSENT OF THE
46 PARENTS, OR THE STUDENT, IF SUCH STUDENT IS EIGHTEEN YEARS OR OLDER.

47 (c) [Upon receipt of the notice by the child pursuant to this subpara-
48 graph, the child, if eighteen years of age or older, shall be given the
49 opportunity to consent or withhold consent to the release of the rele-
50 vant information. Such opportunity shall be given within twenty days of
51 the receipt of the notice. An appropriate member of the staff of the
52 educational facility shall be available to assist the child, if neces-
53 sary, to understand the contents of the notice and the need for his or
54 her consent for the release of the relevant information. A form,
55 prescribed by the commissioner, shall be presented to the child for
56 response, which shall clearly set forth the options of giving consent or

1 withholding consent. In the event that the child exercises neither
2 option, and the designated member of the staff of the educational facil-
3 ity has reason to believe that the child may not be able to understand
4 the purpose of the form, or in the event that the child is less than
5 eighteen years of age, the committee on special education or the multi-
6 disciplinary team shall give the parent or guardian of the child the
7 opportunity to consent in writing to the release of the relevant infor-
8 mation. Nothing in this clause shall be construed to be a determination
9 of the child's mental capacity.

10 (d)] When the committee or multidisciplinary team is notified by the
11 [commissioner who] PUBLIC AGENCY WHICH received the report that such
12 state agency is not responsible for determining and recommending adult
13 services for the child, the committee or multidisciplinary team shall
14 forward the report to another [commissioner] PUBLIC AGENCY; or, if the
15 committee or multidisciplinary team determines that there exists a
16 dispute as to which state agency has the responsibility for determining
17 and recommending adult services, the committee or multidisciplinary team
18 may forward the report to the council on children and families for a
19 resolution of such dispute.

20 [(e) The committee and multidisciplinary team shall prepare and submit
21 an annual report to the state education department on or before October
22 first of each year. Such annual report shall contain the number of cases
23 submitted to each commissioner pursuant to clause (b) or (d) of this
24 subparagraph, the type and severity of the handicapping condition
25 involved with each such case, the number of notices received which deny
26 responsibility for determining and recommending adult services, and
27 other information necessary for the state education department and the
28 council on children and families to monitor the need for adult services.
29 Such annual report shall not contain individually identifying informa-
30 tion. The state education department shall forward a copy of such annual
31 report to the council on children and families. All information received
32 by the council on children and families pursuant to this subparagraph
33 shall be subject to the confidentiality requirements of the department.

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

37 (7)] (6) The committee on special education shall provide a copy of
38 the handbook for parents of children with [handicapping conditions]
39 DISABILITIES established under subdivision eight of section four thou-
40 sand four hundred three of this article or a locally approved [hand-
41 icapped] booklet FOR PARENTS OF CHILDREN WITH DISABILITIES to the
42 parents or person in parental relationship to a child as soon as practi-
43 cable after such child has been referred for evaluation to the committee
44 on special education.

45 S 40. Paragraph a of subdivision 2 of section 4402 of the education
46 law, as amended by chapter 243 of the laws of 1989, is amended to read
47 as follows:

48 a. The board of education or trustees of each school district shall be
49 required to furnish suitable educational opportunities for [children
50 with handicapping conditions] STUDENTS WITH DISABILITIES by one of the
51 special services or programs listed in subdivision two of section
52 forty-four hundred one OF THIS ARTICLE. The need of the individual child
53 shall determine which of such services shall be rendered. Each district
54 shall provide to the maximum extent appropriate such services in a
55 manner which enables [children with handicapping conditions] STUDENTS
56 WITH DISABILITIES to participate in regular education services when

1 appropriate. Such services or programs shall be furnished between the
2 months of September and June of each year, except that for the nineteen
3 hundred eighty-seven--eighty-eight school year and thereafter, with
4 respect to the students whose [handicapping conditions] DISABILITIES are
5 severe enough to exhibit the need for a structured learning environment
6 of twelve months duration to maintain developmental levels, the board of
7 education or trustees of each school district upon the recommendation of
8 the committee on special education [and, in the first instance, the
9 consent of the parent] shall also provide, either directly or by
10 contract, for the provision of special services and programs as defined
11 in section forty-four hundred one of this article during the months of
12 July and August as contained in the individualized education program for
13 each eligible [child] STUDENT, and with prior approval by the commis-
14 sioner if required; provided that [(i) a student with a handicapping
15 condition who is first eligible to attend public school in the nineteen
16 hundred eighty-seven--eighty-eight school year shall not be eligible to
17 receive services pursuant to this paragraph during the months of July
18 and August nineteen hundred eighty-seven and (ii) a student with a
19 handicapping condition who is first eligible to attend public school in
20 the nineteen hundred eighty-eight--eighty-nine school year shall not be
21 eligible to receive services pursuant to this paragraph during the
22 months of July and August nineteen hundred eighty-eight and (iii) a
23 student with a handicapping condition who is eligible for services
24 during the months of July and August nineteen hundred eighty-nine pursu-
25 ant to the provisions of subdivision six of section forty-four hundred
26 ten of this article shall not be eligible to receive services pursuant
27 to this paragraph during such months and (iv)] a student with a [handi-
28 capping condition] DISABILITY who is eligible for services, including
29 services during the months of July and August, pursuant to section
30 forty-four hundred ten of this article shall not be eligible to receive
31 services pursuant to this paragraph during the months of July and
32 August.

33 S 41. Paragraph d of subdivision 4 of section 4402 of the education
34 law, as amended by chapter 646 of the laws of 1992, is amended to read
35 as follows:

36 d. Notwithstanding any other provision of law, such board shall
37 provide suitable transportation up to a distance of fifty miles to and
38 from a nonpublic school which a [child] STUDENT with a [handicapping
39 condition] DISABILITY attends if such [child] STUDENT has been so iden-
40 tified by the local committee on special education and such [child]
41 STUDENT attends such school for the purpose of receiving services or
42 programs FROM SUCH NONPUBLIC SCHOOL THAT ARE similar to special [educa-
43 tional programs] EDUCATION PROGRAMS AND SERVICES recommended for such
44 [child] STUDENT by the local committee on special education. NOTWITH-
45 STANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, A NONPUBLIC STUDENT
46 RECEIVING TRANSPORTATION PURSUANT TO THIS PARAGRAPH SHALL NOT BE ENTI-
47 TLED TO SPECIAL EDUCATION PROGRAMS AND SERVICES FROM THE SCHOOL DISTRICT
48 OF LOCATION PURSUANT TO SECTION THIRTY-SIX HUNDRED TWO-C OF THIS CHAP-
49 TER. AS A CONDITION OF ELIGIBILITY FOR SUCH TRANSPORTATION, THE PARENT
50 OR PERSON IN PARENTAL RELATION TO THE STUDENT SHALL CONSENT TO THE
51 PROVISION OF NOTICE BY THE SCHOOL DISTRICT OF RESIDENCE TO THE CHAIR-
52 PERSON OF THE COMMITTEE ON SPECIAL EDUCATION OF THE SCHOOL DISTRICT IN
53 WHICH THE NONPUBLIC SCHOOL IS LOCATED IDENTIFYING SUCH STUDENT, BY NAME,
54 ADDRESS AND SCHOOL OF ATTENDANCE, AS A STUDENT RECEIVING TRANSPORTATION
55 PURSUANT TO THIS PARAGRAPH. THE SCHOOL DISTRICT OF RESIDENCE SHALL

1 PROVIDE SUCH NOTICE NO LATER THAN THIRTY DAYS AFTER COMMENCING SUCH
2 TRANSPORTATION.

3 S 42. Paragraph a of subdivision 1 of section 4404 of the education
4 law, is amended by chapter 430 of the laws of 2006, is amended to read
5 as follows:

6 a. If the parent or person in parental relation of a student, the
7 board of education or trustees of a school district or a state agency
8 responsible for providing education to students with disabilities
9 presents a complaint with respect to any matter relating to the iden-
10 tification, evaluation or educational placement of the student or the
11 provision of a free appropriate public education to the student or a
12 manifestation determination or other matter relating to placement upon
13 discipline of a student with a disability that may be the subject of an
14 impartial hearing pursuant to subsection (k) of section fourteen hundred
15 fifteen of title twenty of the United States code and the implementing
16 federal regulations, and the party presenting the complaint or their
17 attorney provides a due process complaint notice in accordance with
18 federal law and regulations and such complaint sets forth an alleged
19 violation that occurred not more than [two years] ONE YEAR before the
20 date the parent or public agency knew or should have known about the
21 alleged action that forms the basis for the complaint, OR IN THE CASE OF
22 A COMPLAINT SEEKING TUITION REIMBURSEMENT FOR THE UNILATERAL PARENTAL
23 PLACEMENT OF A STUDENT IN A PRIVATE SCHOOL, SUCH TUITION CLAIM IS
24 PRESENTED NOT MORE THAN ONE HUNDRED EIGHTY DAYS FROM THE PLACEMENT BY
25 THE PARENT OR PERSON IN PARENTAL RELATION IN THE PRIVATE SCHOOL,
26 PROVIDED THAT THE STUDENT SHALL BE DEEMED PLACED FOR SUCH PURPOSE ON THE
27 FIRST DAY THE STUDENT IS ENROLLED IN AND IS LIABLE FOR TUITION IN THE
28 PRIVATE SCHOOL, the board or agency shall appoint an impartial hearing
29 officer to review the due process complaint notice when challenged and,
30 if the matter is not resolved in a resolution session that has been
31 convened as required by federal law, to preside over an impartial due
32 process hearing and make a determination within such period of time as
33 the commissioner by regulation shall determine, provided that the board
34 of education or trustees shall offer the parent or person in parental
35 relation the option of mediation pursuant to section forty-four hundred
36 four-a of this article as an alternative to an impartial hearing. Where
37 the parent or person in parental relation or a school district or public
38 agency presents a complaint, the school district or public agency
39 responsible for appointing the impartial hearing officer shall provide
40 the parent or person in parental relation with a procedural safeguards
41 notice as required pursuant to subsection (d) of section fourteen
42 hundred fifteen of title twenty of the United States code and the imple-
43 menting federal regulations. Notwithstanding any provision of this
44 subdivision to the contrary, the time limitation on presenting a
45 complaint shall not apply to a parent or person in parental relation to
46 the student if the parent or person in parental relation was prevented
47 from requesting the impartial hearing due to specific misrepresentations
48 by the school district or other public agency that it had resolved the
49 problem forming the basis of the complaint or due to the school
50 district's or other public agency's withholding of information from the
51 parent or person in parental relation that was required under federal
52 law to be provided. Nothing in this subdivision shall be construed to
53 authorize the board of education or trustees to bring an impartial hear-
54 ing to override the refusal of a parent or person in parental relation
55 to consent where a local educational agency is prohibited by federal law
56 from initiating such a hearing.

1 S 43. Subparagraph 1 of paragraph a of subdivision 3 of section 4410
2 of the education law, as amended by chapter 378 of the laws of 2007, is
3 amended to read as follows:

4 (1) Such board shall ensure that such committee is composed of at
5 least the following members: (i) the parents of the preschool child;
6 (ii) a regular education teacher of such child, whenever the child is or
7 may be participating in a regular education environment; (iii) a special
8 education teacher of the child or, if appropriate, a special education
9 provider of the child; (iv) an appropriate professional employed by the
10 school district who is qualified to provide, or supervise the provision
11 of, special education, who is knowledgeable about the general curriculum
12 of the school district and the availability of preschool special educa-
13 tion programs and services and other resources in the school district
14 and the municipality, and who shall serve as chairperson of the commit-
15 tee; (v) an additional parent of a child with a disability who resides
16 in the school district or a neighboring school district and whose child
17 is enrolled in a preschool or elementary level education program,
18 provided that such parent shall not be employed by or under contract
19 with the school district or municipality, and provided further that such
20 additional parent shall not be a required member [if] UNLESS the
21 parents, OR A MEMBER OF THE COMMITTEE ON PRESCHOOL SPECIAL EDUCATION
22 request that such additional parent member [not] participate IN ACCORD-
23 ANCE WITH THIS SUBPARAGRAPH; (vi) an individual who can interpret the
24 instructional implications of evaluation results, provided that such
25 individual may be the member appointed pursuant to clause (ii), (iii),
26 (iv) or (vii) of this subparagraph where such individuals are determined
27 by the school district to have the knowledge and expertise to do so;
28 (vii) such other persons having knowledge or expertise regarding the
29 child as the board or the parents shall designate, to the extent
30 required under federal law; and for a child in transition from programs
31 and services provided pursuant to applicable federal laws relating to
32 early intervention services, at the request of the parent or person in
33 parental relation to the child, the appropriate professional designated
34 by the agency that has been charged with the responsibility for the
35 preschool child pursuant to said applicable federal laws. In addition,
36 the chief executive officer of the municipality of the preschool child's
37 residence shall appoint an appropriately certified or licensed profes-
38 sional to the committee. Attendance of the appointee of the municipality
39 shall not be required for a quorum. THE ADDITIONAL PARENT NEED NOT BE
40 IN ATTENDANCE AT ANY MEETING OF THE COMMITTEE ON PRESCHOOL SPECIAL
41 EDUCATION UNLESS SPECIFICALLY IN WRITING, AT LEAST SEVENTY-TWO HOURS
42 PRIOR TO SUCH MEETING, BY THE PARENTS OR OTHER PERSON IN PARENTAL
43 RELATION TO THE STUDENT IN QUESTION, OR A MEMBER OF THE COMMITTEE ON
44 PRESCHOOL SPECIAL EDUCATION. THE PARENTS OR PERSONS IN PARENTAL RELATION
45 OF THE STUDENT IN QUESTION SHALL RECEIVE PROPER WRITTEN NOTICE OF THEIR
46 RIGHT TO HAVE AN ADDITIONAL PARENT ATTEND ANY MEETING OF THE COMMITTEE
47 REGARDING THE STUDENT ALONG WITH A STATEMENT, PREPARED BY THE DEPART-
48 MENT, EXPLAINING THE ROLE OF HAVING THE ADDITIONAL PARENT ATTEND THE
49 MEETING.

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

53 (1) Such board shall ensure that such committee is composed of at
54 least the following members: (i) the parents of the preschool child;
55 (ii) a regular education teacher of such child, whenever the child is or
56 may be participating in a regular education environment; (iii) a special

1 education teacher of the child or, if appropriate, a special education
2 provider of the child; (iv) an appropriate professional employed by the
3 school district who is qualified to provide, or supervise the provision
4 of, special education, who is knowledgeable about the general curriculum
5 of the school district and the availability of preschool special educa-
6 tion programs and services and other resources in the school district
7 and the municipality, and who shall serve as chairperson of the commit-
8 tee; (v) an additional parent of a child with a disability who resides
9 in the school district or a neighboring school district and whose child
10 is enrolled in a preschool or elementary level education program,
11 provided that such parent shall not be employed by or under contract
12 with the school district or municipality, and provided further that such
13 additional parent shall not be a required member [if] UNLESS the
14 parents, THE STUDENT OR A MEMBER OF THE COMMITTEE ON PRESCHOOL SPECIAL
15 EDUCATION request that such additional parent member [not] participate
16 IN ACCORDANCE WITH THIS SUBPARAGRAPH; (vi) an individual who can inter-
17 pret the instructional implications of evaluation results, provided that
18 such individual may be the member appointed pursuant to clause (ii),
19 (iii), (iv) or (vii) of this subparagraph where such individuals are
20 determined by the school district to have the knowledge and expertise to
21 do so; (vii) such other persons having knowledge or expertise regarding
22 the child as the board or the parents shall designate, to the extent
23 required under federal law; and for a child in transition from programs
24 and services provided pursuant to applicable federal laws relating to
25 early intervention services, the appropriate professional designated by
26 the agency that has been charged with the responsibility for the
27 preschool child pursuant to said applicable federal laws. In addition,
28 the chief executive officer of the municipality of the preschool child's
29 residence shall appoint an appropriately certified or licensed profes-
30 sional to the committee. Attendance of the appointee of the munici-
31 pality shall not be required for a quorum. THE ADDITIONAL PARENT NEED
32 NOT BE IN ATTENDANCE AT ANY MEETING OF THE COMMITTEE ON PRESCHOOL
33 SPECIAL EDUCATION UNLESS SPECIFICALLY REQUESTED IN WRITING, AT LEAST
34 SEVENTY-TWO HOURS PRIOR TO SUCH MEETING BY THE PARENTS OR OTHER PERSON
35 IN PARENTAL RELATION TO THE STUDENT IN QUESTION, OR A MEMBER OF THE
36 COMMITTEE ON PRESCHOOL SPECIAL EDUCATION. THE PARENTS OR PERSONS IN
37 PARENTAL RELATION OF THE STUDENT IN QUESTION SHALL RECEIVE PROPER WRIT-
38 TEN NOTICE OF THEIR RIGHT TO HAVE AN ADDITIONAL PARENT ATTEND ANY MEET-
39 ING OF THE COMMITTEE REGARDING THE STUDENT ALONG WITH A STATEMENT,
40 PREPARED BY THE DEPARTMENT, EXPLAINING THE ROLE OF HAVING THE ADDITIONAL
41 PARENT ATTEND THE MEETING.

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

45 b. Each board shall, within time limits established by the commission-
46 er, be responsible for providing the parent of a preschool child
47 suspected of having a [handicapping condition] DISABILITY with a list of
48 approved evaluators in the geographic area. The [parent may select the
49 evaluator from such list] SCHOOL DISTRICT SHALL, AFTER PROVIDING THE
50 PARENT WITH A LIST OF APPROVED PRESCHOOL EVALUATORS AND OBTAINING PARENT
51 CONSENT TO EVALUATE, ARRANGE FOR AN EVALUATION BY THE SERVICE PROVIDER
52 SELECTED BY THE DISTRICT WHO CAN PROVIDE THE EVALUATION OF THE STUDENT
53 WITHIN THE TIMELINE REQUIRED BY THE DEPARTMENT. IN SELECTING THE EVALU-
54 ATOR, THE DISTRICT SHALL CONSIDER THE PARENT'S EXPRESSED PREFERENCE, IF
55 ANY, FOR THE EVALUATOR. Each board shall provide for dissemination of
56 the list and other information to parents at appropriate sites including

but not limited to pre-kindergarten, day care, head start programs and early childhood direction centers, pursuant to regulations of the commissioner.

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

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

Such application shall include, but not be limited to, a description of the multi-disciplinary evaluation services proposed to be provided and a demonstration that all agency employees and staff who provide such evaluation services shall have appropriate licensure and/or certification and that the individual who shall have direct supervision responsibilities over such staff shall have an appropriate level of experience in providing evaluation or services to preschool or kindergarten-aged children with disabilities. To be eligible for approval as an evaluator under this subdivision on and after July first, two thousand eleven, a group of appropriately licensed or certified professionals shall be formed as a limited liability company or professional services corporation established pursuant to article fifteen of the business corporation law, article twelve or thirteen of the limited liability company law or article eight-B of the partnership law. The approval of any groups of licensed or certified professionals that are in existence on July first, two thousand eleven and would not be eligible for approval thereafter shall terminate on July first, two thousand thirteen.

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

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

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

S 48. This act shall take effect July 1, 2013, provided that if this act shall become a law after such date, it shall take effect immediately and shall be deemed to have been in full force and effect on and after July 1, 2013 and provided further, nothing in section twelve of this act shall be construed to require the retrofitting of school buses purchased prior to the effective date of this act, and provided further that:

(a) the amendments to paragraph a of subdivision 14 of section 305 of the education law made by section five of this act shall be subject to the expiration and reversion of such paragraph pursuant to chapter 698

1 of the laws of 1996, as amended, when upon such date the provisions of
2 section six of this act shall take effect;

3 (b) the amendments to paragraph e of subdivision 14 of section 305 of
4 the education law made by section seven of this act shall not affect the
5 repeal of such paragraph and shall be deemed repealed therewith;

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

11 (d) the amendments to subparagraph 2 of paragraph (b) of subdivision 4
12 of section 2590-b of the education law made by section fifteen of this
13 act shall not affect the repeal of such subdivision or the expiration of
14 such section and shall be deemed to repeal or expire therewith;

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

20 (f) the amendments to subdivision 2 of section 3602-c of the education
21 law made by section eighteen of this act shall not affect the expiration
22 of such subdivision and shall be deemed to expire therewith;

23 (g) the amendments to subdivision 7 of section 3602-c of the education
24 law made by section nineteen of this act shall not affect the expiration
25 or repeal of such provisions and shall be deemed to expire or repeal
26 therewith;

27 (h) the amendments to subparagraph 2 of paragraph b of subdivision 1
28 of section 4402 of the education law made by section twenty-eight of
29 this act shall be subject to the expiration and reversion of such
30 subparagraph pursuant to chapter 352 of the laws of 2005, as amended,
31 when upon such date the provisions of section twenty-nine of this act
32 shall take effect;

33 (i) the amendments to subdivision 16 of section 4403 of the education
34 law made by section thirty-four of this act shall take effect on the
35 same date and in the same manner as section 4 of part E of chapter 501
36 of the laws of 2012, takes effect;

37 (j) the amendments to clause (b) of subparagraph 1 of paragraph b of
38 subdivision 1 of section 4402 of the education law made by section thir-
39 ty-five of this act shall be subject to the expiration and reversion of
40 such clause pursuant to chapter 378 of the laws of 2007, as amended,
41 when upon such date the provisions of section thirty-six of this act
42 shall take effect;

43 (k) the amendments to paragraph a of subdivision 1 of section 4404 of
44 the education law made by section forty-two of this act shall not affect
45 the expiration of such subdivision and shall be deemed to expire there-
46 with; and

47 (l) the amendments to subparagraph 1 of paragraph a of subdivision 3
48 of section 4410 of the education law made by section forty-three of this
49 act shall be subject to the expiration and reversion of such subpara-
50 graph pursuant to chapter 378 of the laws of 2007, as amended, when upon
51 such date the provisions of section forty-four of this act shall take
52 effect.