

3984--A

2015-2016 Regular Sessions

I N   A S S E M B L Y

January 28, 2015

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Introduced by M. of A. AUBRY, PERRY -- read once and referred to the Committee on Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to use of school facilities by not-for-profit and charitable organizations for after-school programs

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

1     Section 1. Subdivision 1 of section 414 of the education law is  
2 amended by adding a new paragraph (l) to read as follows:

3     (L) FOR BONA FIDE AFTER-SCHOOL PROGRAMS OPERATED BY A NOT-FOR-PROFIT  
4 OR CHARITABLE ORGANIZATION. SUCH PROGRAMS SHALL PRESENT SOME FORM OF  
5 EDUCATIONAL INSTRUCTION OR ACADEMIC MATERIAL, OR PROMOTE PHYSICAL EDUCA-  
6 TION, ARTS INSTRUCTION, COMMUNITY SERVICE OR OTHER ACTIVITIES TO PROMOTE  
7 YOUTH DEVELOPMENT.

8     S 2. Subdivision 2 of section 414 of the education law, as amended by  
9 chapter 513 of the laws of 2005, is amended to read as follows:

10     2. (A) The trustees or board of education shall determine the terms  
11 and conditions for such use which may include rental at least in an  
12 amount sufficient to cover all resulting expenses for the purposes of  
13 paragraphs (a), (b), (c), (d), (e), (g), (i), (j) and (k) of subdivision  
14 one of this section. Any such use, pursuant to paragraphs (a), (c), (d),  
15 (h) and (j) of subdivision one of this section, shall not allow the  
16 exclusion of any district child solely because said child is not attend-  
17 ing a district school or not attending the district school which is  
18 sponsoring such use or on which grounds the use is to occur.

19     (B) FOR PURPOSES OF PARAGRAPH (1) OF SUBDIVISION ONE OF THIS SECTION,  
20 THE TRUSTEES OR BOARD OF EDUCATION MAY PROVIDE THAT EITHER NO FEE OR A  
21 MINIMAL FEE BE IMPOSED UPON THE NOT-FOR-PROFIT OR CHARITABLE ORGANIZA-  
22 TION, AND SHALL, IN NO EVENT, IMPOSE A FEE GREATER THAN THE ACTUAL  
23 EXPENSES INCURRED THROUGH THE RENTAL OF THE SPACE USED BY THE

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

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1 NOT-FOR-PROFIT OR CHARITABLE ORGANIZATION. ACTUAL EXPENSES MAY INCLUDE  
2 ANY ADDITIONAL STAFF OR CONTRACTOR TIME, FACILITIES MAINTENANCE ACTIV-  
3 ITIES, UTILITIES CHARGES AND ADDITIONAL SECURITY MEASURES INCURRED  
4 DIRECTLY DUE TO THE PRESENCE OF THE PROGRAM IN THE SCHOOLHOUSE OR ON THE  
5 GROUNDS WHEN NOT IN USE FOR SCHOOL PURPOSES AND ACTIVITIES CONDUCTED BY  
6 THE PROGRAM. ACTUAL EXPENSES SHALL NOT INCLUDE ANY STAFF OR CONTRACTOR  
7 TIME, MAINTENANCE ACTIVITIES, UTILITY COSTS OR SECURITY MEASURES THAT  
8 WOULD HAVE BEEN INCURRED IF THE PROGRAM HAD NOT BEEN HELD. IF MORE THAN  
9 ONE ORGANIZATION IS HOLDING AN ACTIVITY IN THE SCHOOLHOUSE OR ON THE  
10 GROUNDS WHEN NOT IN USE FOR SCHOOL PURPOSES AT THE SAME TIME, ACTUAL  
11 EXPENSES SHALL BE DIVIDED PROPORTIONATELY BETWEEN SUCH ORGANIZATIONS AND  
12 SHALL NOT EXCEED THE TOTAL ACTUAL EXPENSES INCURRED. THE NOT-FOR-PROFIT  
13 OR CHARITABLE ORGANIZATION, UPON REQUEST, SHALL BE PROVIDED WITH  
14 DOCUMENTATION OF THE ACTUAL EXPENSES INCURRED.

15 S 3. Subdivision 27 of section 2590-h of the education law, as amended  
16 by chapter 345 of the laws of 2009, is amended to read as follows:

17 27. Promulgate regulations, in conjunction with each community super-  
18 intendent, establishing a plan for providing access to school facilities  
19 in each community school district, when not in use for school purposes,  
20 in accordance with the provisions of section four hundred fourteen of  
21 this chapter. Such plan shall set forth a reasonable system of fees not  
22 to exceed the actual costs and specify that no part of any fee shall  
23 directly or indirectly benefit or be deposited into an account which  
24 inures to the benefit of the custodians or custodial engineers. ACTUAL  
25 COSTS MAY INCLUDE ANY ADDITIONAL STAFF OR CONTRACTOR TIME, FACILITIES  
26 MAINTENANCE ACTIVITIES, UTILITIES CHARGES AND ADDITIONAL SECURITY MEAS-  
27 URES INCURRED DIRECTLY DUE TO THE PRESENCE OF AN ORGANIZATION IN SCHOOL  
28 FACILITIES WHEN NOT IN USE FOR SCHOOL PURPOSES AND THE ACTIVITIES  
29 CONDUCTED BY THAT ORGANIZATION. ACTUAL COSTS SHALL NOT INCLUDE ANY STAFF  
30 OR CONTRACTOR TIME, MAINTENANCE ACTIVITIES, UTILITY COSTS OR SECURITY  
31 MEASURES THAT WOULD HAVE BEEN INCURRED IF THOSE ACTIVITIES HAD NOT BEEN  
32 HELD. IF MORE THAN ONE ORGANIZATION IS HOLDING AN ACTIVITY IN THE SCHOOL  
33 FACILITIES WHEN NOT IN USE FOR SCHOOL PURPOSES AT THE SAME TIME, ACTUAL  
34 COSTS SHALL BE DIVIDED PROPORTIONATELY BETWEEN SUCH ORGANIZATIONS AND  
35 SHALL NOT EXCEED THE TOTAL ACTUAL COSTS INCURRED. THE PLAN SHALL PROVIDE  
36 THAT THE ORGANIZATION SHALL, UPON REQUEST, BE PROVIDED WITH DOCUMENTA-  
37 TION OF THE ACTUAL COSTS INCURRED. NOTWITHSTANDING ANY OTHER PROVISION  
38 OF LAW, RULE OR REGULATION TO THE CONTRARY, SUCH PLAN MAY PROVIDE THAT  
39 EITHER NO FEE OR A MINIMAL FEE SHALL BE CHARGED FOR THE USE OF SCHOOL  
40 FACILITIES BY A NOT-FOR-PROFIT OR CHARITABLE ORGANIZATION THAT PRESENTS  
41 SOME FORM OF EDUCATIONAL INSTRUCTION OR ACADEMIC MATERIAL, OR PROVIDES  
42 PHYSICAL EDUCATION, ARTS INSTRUCTION, COMMUNITY SERVICE OR OTHER ACTIV-  
43 ITIES TO PROMOTE YOUTH DEVELOPMENT.

44 S 4. Subdivision 27 of section 2590-h of the education law, as amended  
45 by chapter 720 of the laws of 1996, is amended to read as follows:

46 27. Develop, in conjunction with each community superintendent, a plan  
47 for providing access to school facilities in each community school  
48 district, when not in use for school purposes, in accordance with the  
49 provisions of section four hundred fourteen of this chapter. Such plan  
50 shall set forth a reasonable system of fees not to exceed the actual  
51 costs and specify that no part of any fee shall directly or indirectly  
52 benefit or be deposited into an account which inures to the benefit of  
53 the custodians or custodial engineers. ACTUAL COSTS MAY INCLUDE ANY  
54 ADDITIONAL STAFF OR CONTRACTOR TIME, FACILITIES MAINTENANCE ACTIVITIES,  
55 UTILITIES CHARGES AND ADDITIONAL SECURITY MEASURES INCURRED DIRECTLY DUE  
56 TO THE PRESENCE OF AN ORGANIZATION IN SCHOOL FACILITIES WHEN NOT IN USE

1 FOR SCHOOL PURPOSES AND THE ACTIVITIES CONDUCTED BY THAT ORGANIZATION.  
2 ACTUAL COSTS SHALL NOT INCLUDE ANY STAFF OR CONTRACTOR TIME, MAINTENANCE  
3 ACTIVITIES, UTILITY COSTS OR SECURITY MEASURES THAT WOULD HAVE BEEN  
4 INCURRED IF THOSE ACTIVITIES HAD NOT BEEN HELD. IF MORE THAN ONE ORGAN-  
5 IZATION IS HOLDING AN ACTIVITY IN THE SCHOOL FACILITIES WHEN NOT IN USE  
6 FOR SCHOOL PURPOSES AT THE SAME TIME, ACTUAL COSTS SHALL BE DIVIDED  
7 PROPORTIONATELY BETWEEN SUCH ORGANIZATIONS AND SHALL NOT EXCEED THE  
8 TOTAL ACTUAL COSTS INCURRED. THE PLAN SHALL PROVIDE THAT THE ORGANIZA-  
9 TION SHALL, UPON REQUEST, BE PROVIDED WITH DOCUMENTATION OF THE ACTUAL  
10 COSTS INCURRED. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, RULE OR  
11 REGULATION TO THE CONTRARY, SUCH PLAN MAY PROVIDE THAT EITHER NO FEE OR  
12 A MINIMAL FEE SHALL BE CHARGED FOR THE USE OF SCHOOL FACILITIES BY A  
13 NOT-FOR-PROFIT OR CHARITABLE ORGANIZATION. THE USE OF SUCH FACILITIES  
14 SHALL ONLY BE FOR BONA FIDE AFTER-SCHOOL PROGRAMS THAT PRESENT SOME FORM  
15 OF EDUCATIONAL INSTRUCTION OR ACADEMIC MATERIAL, OR PROMOTE PHYSICAL  
16 EDUCATION.

17 S 5. This act shall take effect on the one hundred eightieth day after  
18 it shall have become a law; provided that the amendments to subdivision  
19 27 of section 2590-h of the education law, made by section three of this  
20 act, shall be subject to the expiration and reversion of such section,  
21 pursuant to subdivision 12 of section 17 of chapter 345 of the laws of  
22 2009, as amended, when upon such date the provisions of section four of  
23 this act shall take effect.