

STATE OF NEW YORK

8823

IN SENATE

May 23, 2018

Introduced by Sen. FELDER -- 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 the handling of appeals regarding recommendations for children with handicapping conditions; to amend chapter 352 of the laws of 2005, amending the education law relating to implementation of the federal individuals with disabilities education improvement act of 2004, in relation to the effectiveness thereof; and to amend chapter 378 of the laws of 2007, amending the education law relating to the implementation of the federal individuals with disabilities education improvement act of 2004, in relation to the effectiveness thereof

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

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

4 (i) Make recommendations based upon a written evaluation setting forth
5 the reasons for the recommendations, to the child's parent or person in
6 parental relation and board of education or trustees as to appropriate
7 educational programs and placement in accordance with the provisions of
8 subdivision six of section forty-four hundred one-a of this article, and
9 as to the advisability of continuation, modification, or termination of
10 special class or program placements which evaluation shall be furnished
11 to the child's parent or person in parental relation together with the
12 recommendations provided, however that the committee may recommend a
13 placement in a school which uses psychotropic drugs only if such school
14 has a written policy pertaining to such use that is consistent with
15 subdivision four-a of section thirty-two hundred eight of this chapter
16 and that the parent or person in parental relation is given such written
17 policy at the time such recommendation is made. If such recommendation
18 is not acceptable to the parent or person in parental relation, such
19 parent or person in parental relation may appeal such recommendation as
20 provided for in section forty-four hundred four of this [~~chapter~~] arti-
21 cle. Provided, further, that in a school district in a city having a
22 population of one million or more a parent's appeal of such recommenda-
23 tion shall be resolved, either through the granting or denial of the
24 appeal by an impartial hearing officer, or by a state review officer, or

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

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1 by a court, or by the signing of a settlement agreement between the
2 parent or person in parental relation and the board of education of the
3 school district in the city having a population of one million or more
4 or state agency.

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

7 Notwithstanding any other provision of law, rule or regulation to the
8 contrary, in a school district in a city having a population of one
9 million or more, upon the decision of an impartial hearing officer,
10 state review officer, or by a court finding, or by the signing of a
11 settlement agreement between the parent or person in parental relation
12 and the board of education of the school district in the city having a
13 population of one million or more or a state agency, that a unilateral
14 parental placement shall be made and that tuition payments shall be
15 granted for such unilateral placement, then such placement and tuition
16 payments shall continue for no less than three years, with such uninter-
17 rupted payments being at the same percentage of the total tuition cost
18 as the previous year's payments, unless and until the committee on
19 special education determines that the child's needs can be met in another
20 public or approved private school program and where such determi-
21 nation was based upon a significant revision to the child's individual-
22 ized education program that is caused by a substantial change to the
23 child's disability status that requires the committee to recommend such
24 new placement; provided however that where the parent or person in
25 parental relation brings a due process proceeding to challenge such
26 revised, new placement, the unilateral parental placement for which
27 tuition payment was granted shall be the pendency placement, as provided
28 in subdivision four of this section.

29 § 3. Section 22 of chapter 352 of the laws of 2005, amending the
30 education law relating to implementation of the federal individuals with
31 disabilities education improvement act of 2004, as amended by chapter 35
32 of the laws of 2015, is amended to read as follows:

33 § 22. This act shall take effect July 1, 2005, provided, however, if
34 this act shall become a law after such date it shall take effect imme-
35 diately and shall be deemed to have been in full force and effect on and
36 after July 1, 2005; and provided further, however, that sections one
37 through four and six through twenty-one of this act shall expire and be
38 deemed repealed June 30, [~~2018~~] 2021, and section five of this act shall
39 expire and be deemed repealed June 30, [~~2018~~] 2021.

40 § 4. Subdivision d of section 27 of chapter 378 of the laws of 2007,
41 amending the education law relating to implementation of the federal
42 individuals with disabilities education improvement act of 2004, as
43 amended by chapter 35 of the laws of 2015, is amended to read as
44 follows:

45 d. the provisions of this act shall expire and be deemed repealed June
46 30, [~~2018~~] 2021.

47 § 5. This act shall take effect immediately; provided, however, that
48 the amendments to item (i) of clause (b) of subparagraph 3 of paragraph
49 b of subdivision 1 of section 4402 of the education law made by section
50 one of this act shall not affect the expiration of such clause and shall
51 be deemed to expire therewith; provided further, however, that the
52 amendments to subdivision 1 of section 4404 of the education law made by
53 section two of this act shall not affect the expiration of such subdivi-
54 sion and shall be deemed to expire therewith.