

STATE OF NEW YORK

7158

2021-2022 Regular Sessions

IN SENATE

June 3, 2021

Introduced by Sen. LIU -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the education law, in relation to pendency placements in a school district in a city having a population of one million or more

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

1 Section 1. Section 4404 of the education law is amended by adding a
2 new subdivision 1-a to read as follows:

3 1-a. a. Notwithstanding any other provision of law, rule or regu-
4 lation to the contrary, in a school district in a city having a popu-
5 lation of one million or more, the parent or person in parental
6 relation shall be entitled to the presumption that the school identified
7 in a settlement agreement entered on or after the effective date of this
8 subdivision is the student's operative placement for the purposes of
9 pendency until there is an intervening, pendency-changing event (that
10 is, an actual agreement of the parties; an unappealed decision by an
11 impartial hearing officer; a decision of the state review officer that
12 agrees with the parents as to the appropriateness of their proposed
13 change in placement; or a determination by a court on appeal from the
14 decision of a state review officer) or a program offered by the school
15 district and not challenged by the parent. Each child's IEP shall be
16 reviewed periodically, but not less frequently than annually, as
17 required by 20 U.S.C. 1414(d)(4)(A)(i). Pendency payments for tuition
18 shall be made prospectively and shall be made for amounts not less than
19 two months' worth of tuition or the remaining balance on the contract,
20 whichever is smaller, provided that the initial tuition payment may
21 include retroactive payments. Pendency payments, as provided for in
22 subdivision four of this section, shall continue uninterrupted while the
23 appeal is pending. If the child is moved into a program offered by the
24 school district during the school year, or the child is no longer enti-
25 tled to receive all the services that the child had been receiving from

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

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1 the non-public school, the child's parents shall not be required to
2 repay any of the tuition reimbursement received prior to such change,
3 provided the cost of services that would have been provided by the
4 school district had the child been attending public school is the same
5 or greater than the cost of the services that were actually provided to
6 the student by the non-public school.

7 b. Where a claim for tuition for a school year commencing in two thou-
8 sand nineteen or earlier has been filed pursuant to this section on or
9 before June thirtieth, two thousand twenty and remains pending and time-
10 ly, the local educational agency of a city having a population of over
11 one million shall, on or before September first, two thousand twenty-
12 two, make all reasonable efforts to finalize a settlement or inform the
13 parent or person in parental relation, or their representative, that it
14 has not been able to settle the claim. Nothing in this act shall
15 preclude parties from reaching a settlement after September first, two
16 thousand twenty-two. Any settlements for tuition, including those
17 already settled, shall include a schedule for payments, the first of
18 which shall begin no later than sixty days after the latter of the date
19 the settlement is fully executed or receipt of documentation necessary
20 for payment, and the remainder of which shall be completed within sixty
21 days of receipt of any documentation necessary for payment.

22 § 2. This act shall take effect January 1, 2022.