

STATE OF NEW YORK

3950

2025-2026 Regular Sessions

IN ASSEMBLY

January 30, 2025

Introduced by M. of A. PHEFFER AMATO -- read once and referred to the Committee on Education

AN ACT to amend the education law, in relation to the submission of requests to the committee on special education for the educational services mandated by an individualized education services program

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

1 Section 1. Section 3602-c of the education law is amended by adding a
2 new subdivision 2-d to read as follows:

3 2-d. a. Notwithstanding any provision to the contrary, for the two
4 thousand twenty-four--two thousand twenty-five school year, a parent or
5 person in parental relation to a student with a disability attending a
6 nonpublic school shall have until April first, two thousand twenty-five
7 to submit a request to the committee on special education of the school
8 district of location for the educational services mandated by an indi-
9 vidualized education services program for the student.

10 b. For purposes of this subdivision, "procedural grounds" shall mean
11 administrative or procedural errors in the application process, includ-
12 ing, but not limited to, failure to meet submission deadlines, incom-
13 plete documentation, or other technical errors, and not the substantive
14 eligibility or needs of the student.

15 c. Within fourteen days of the effective date of this subdivision, the
16 committee on special education of the school district of location shall
17 provide written notice to each parent or person in parental relation to
18 a student with a disability attending a nonpublic school located in such
19 district whose request for services for the two thousand twenty-four--
20 two thousand twenty-five school year was denied on procedural grounds
21 prior to the effective date of this subdivision. Such notice shall
22 afford such parent or person in parental relation a reasonable opportu-
23 nity to cure the procedural deficiencies. Such notice shall include:

24 (1) identification of all deficiencies in the original application;

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

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1 (2) a description of the steps necessary to remedy such deficiencies;
2 and

3 (3) information regarding the extended submission deadline set forth
4 in paragraph a of this subdivision.

5 d. Services requested pursuant to this section for the two thousand
6 twenty-four--two thousand twenty-five school years shall be authorized
7 by the committee on special education of the school district of location
8 within fourteen days of receipt of a procedurally sufficient application
9 as determined by the committee on special education of such school
10 district.

11 e. Services requested for a student with a disability for the two
12 thousand twenty-four--two thousand twenty-five school year who has
13 previously been the subject of a due process hearing regarding the rate
14 for such services pursuant to section forty-four hundred four of this
15 chapter, shall be authorized at the hourly rate established in the most
16 recent prior due process determination without requiring the parent or
17 person in parental relation to initiate a new due process proceeding.
18 Such enhanced rate shall be authorized by the committee on special
19 education of the school district of location within fourteen days of
20 receipt of a request demonstrating the prior determination and eligibil-
21 ity for services. Parents or persons in parental relation to a student
22 with a disability may initiate a new due process hearing pursuant to
23 section forty-four hundred four of this chapter if they deem the previ-
24 ous rate no longer acceptable or wish to adjudicate other issues related
25 to the student's needs, services or eligibility.

26 f. Parents or persons in parental relation to a student with a disa-
27 bility who was otherwise eligible to receive special education services
28 but was denied provision of such services on procedural grounds, and who
29 thereafter submitted a request pursuant to this subdivision, shall be
30 entitled to payment for costs incurred in obtaining equivalent services
31 through other means. Such payment shall not exceed the cost of services
32 for which the student was previously determined to be eligible, at the
33 rate determined by the school district of location or at the rate deter-
34 mined by an impartial hearing officer appointed pursuant to section
35 forty-four hundred four of this chapter, whichever rate is higher. If
36 the student was previously the subject of a due process hearing regard-
37 ing the rate for equivalent services, the hourly rate established in
38 that hearing shall apply for purposes of this provision. Claims for
39 payment must be filed within two years of the end of the school year for
40 which the costs were incurred or within two years of the effective date
41 of this subdivision, whichever date is later. Claims shall be adjudi-
42 cated by an impartial hearing officer appointed pursuant to section
43 forty-four hundred four of this chapter and must include sufficient
44 documentation to demonstrate the student's eligibility for services and
45 the costs incurred. Payments under this paragraph shall only apply to
46 costs incurred during the two thousand twenty-three--two thousand twen-
47 ty-four and two thousand twenty-four--two thousand twenty-five school
48 years.

49 g. Parents or persons in parental relation to a student with a disa-
50 bility who was otherwise eligible to receive special education services
51 but was denied provision of such services on procedural grounds, and who
52 were unable to fully obtain such services through other means, may seek
53 compensatory services as a remedy for the harm caused by the lack of
54 services. Claims for compensatory services must be filed within two
55 years of the end of the school year for which the services were denied
56 or within two years of the effective date of this subdivision, whichever

1 date is later. Claims shall be adjudicated by an impartial hearing offi-
2 cer appointed pursuant to section forty-four hundred four of this chap-
3 ter and must include sufficient documentation to demonstrate the
4 student's eligibility for compensatory services.

5 h. Upon approval of a claim for compensatory services pursuant to this
6 subdivision, the committee on special education of the school district
7 of location shall review the student's needs and develop an individual-
8 ized education service program that incorporates the compensatory
9 services. If the student has an existing individualized education
10 service program, the committee on special education shall amend the
11 individualized education service program to include the compensatory
12 services, unless and until a new evaluation or review determines that
13 further amendments are necessary. The compensatory services shall be
14 provided during the school year for which the harm occurred and during
15 subsequent school years. The committee on special education shall notify
16 the parent or person in parental relation of the approval and inte-
17 gration of compensatory services into the individualized education
18 service program and provide a detailed description of how and when the
19 services will be delivered.

20 i. No services provided pursuant to this section shall be conditioned
21 upon the waiver of any procedural safeguards available pursuant to: (i)
22 this article; (ii) article eighty-nine of this chapter; or (iii) any
23 other or applicable state and federal law. Any agreement that purports
24 to waive such safeguards in violation of this paragraph shall be deemed
25 void as a matter of public policy.

26 j. Within fourteen days of the effective date of this subdivision, the
27 committee on special education of the school district of location shall
28 provide written notice to all parents or persons in parental relation to
29 students with disabilities attending nonpublic schools within such
30 district regarding the provisions of this subdivision. Such notice
31 shall:

32 (1) be provided in the native language of the parent or person in
33 parental relation;

34 (2) include a description of the extended deadline for requesting
35 services pursuant to paragraph a of this subdivision;

36 (3) include a description of the eligibility criteria and process for
37 seeking payment for costs incurred in obtaining equivalent services
38 under paragraph f of this subdivision, including the documentation
39 required to demonstrate eligibility and costs incurred;

40 (4) include a description of the eligibility criteria and process for
41 seeking compensatory services under paragraph g of this subdivision,
42 including the documentation required to demonstrate eligibility, the
43 process for adjudication by an impartial hearing officer, and details
44 about how approved compensatory services will be incorporated into the
45 individualized education service program; and

46 (5) include an explanation of the procedural safeguards available
47 under paragraph i of this subdivision, with a clear statement that no
48 services provided under this subdivision shall be conditioned upon the
49 waiver of such safeguards and that any agreement purporting to waive
50 such safeguards is void as a matter of public policy.

51 § 2. This act shall take effect immediately.