

STATE OF NEW YORK

1325--A

2025-2026 Regular Sessions

IN SENATE

January 9, 2025

Introduced by Sen. HOYLMAN-SIGAL -- read twice and ordered printed, and when printed to be committed 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 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

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

LBD03202-03-5

1 afford such parent or person in parental relation a reasonable opportunity to cure the procedural deficiencies. Such notice shall include:
2

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

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

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

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

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

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

52 g. Parents or persons in parental relation to a student with a disa-
53 bility who was otherwise eligible to receive special education services
54 but was denied provision of such services on procedural grounds, and who
55 were unable to fully obtain such services through other means, may seek
56 compensatory services as a remedy for the harm caused by the lack of

1 services. Claims for compensatory services must be filed within two
2 years of the end of the school year for which the services were denied
3 or within two years of the effective date of this subdivision, whichever
4 date is later. Claims shall be adjudicated by an impartial hearing offi-
5 cer appointed pursuant to section forty-four hundred four of this chap-
6 ter and must include sufficient documentation to demonstrate the
7 student's eligibility for compensatory services.

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

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

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

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

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

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

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

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

54 § 2. Severability. If any clause, sentence, paragraph, subdivision,
55 section or part of this act shall be adjudged by any court of competent
56 jurisdiction to be invalid, such judgment shall not affect, impair, or

1 invalidate the remainder thereof, but shall be confined in its operation
2 to the clause, sentence, paragraph, subdivision, section or part thereof
3 directly involved in the controversy in which such judgment shall have
4 been rendered. It is hereby declared to be the intent of the legislature
5 that this act would have been enacted even if such invalid provisions
6 had not been included herein.
7 § 3. This act shall take effect immediately.