STATE OF NEW YORK

4151

2025-2026 Regular Sessions

IN SENATE

February 3, 2025

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

AN ACT to amend the education law, the mental hygiene law and the social services law, in relation to student age eligibility for certain programs and benefits

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

Section 1. Subdivision 1 of section 112-a of the education law, as amended by chapter 26 of the laws of 2022, is amended to read as follows:

1. A person under twenty-one years of age**, or under twenty-two years of age for a student with a disability as defined in section forty-four hundred one of this chapter,** who has not received a high school diploma and who is placed with, committed to, under the supervision of, detained or otherwise confined in any facility operated or administered by a state department or agency or political subdivision of the state which provides educational programs pursuant to section one hundred twelve of this article, or who is confined in a correctional facility, as defined in subdivision four of section two of the correction law, and who participates in an educational program provided by such facility, shall be issued a high school diploma by the school district of location except when credit bearing educational programming is provided by another school district. When credit bearing educational programming is provided by another school district, that district shall be responsible for issuing the high school diploma. The school district responsible for issuing the diploma must determine if such person has completed the minimum New York state diploma requirements as set forth in the regulations of the commissioner while placed with, committed to, under the supervision of, detained or confined in such facility.

§ 2. Subdivisions 13 and 14 of section 1102 of the education law, subdivision 13 as amended by chapter 301 of the laws of 1996, and subdi-

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

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vision 14 as added by chapter 293 of the laws of 1954, are amended to read as follows:

13. It may transport pupils under twenty-one years of age**, or under twenty-two years of age for a student with a disability as defined in section forty-four hundred one of this chapter,** to and from schools and classes maintained by such vocational education and extension board for instruction in career education. In providing such transportation, the board may transport pupils residing outside the county who are attending such schools and classes maintained by such board pursuant to subdivision twelve of this section.

14. It may purchase and maintain a motor vehicle or vehicles to be used for the transportation of school children under twenty-one years of age**, or under twenty-two years of age for a student with a disability as defined in section forty-four hundred one of this chapter,** to schools and classes maintained by the county vocational education and extension board. Such motor vehicle or vehicles may be leased to a school district when not needed for such transportation. When such motor vehicle shall be leased as provided in this subdivision, public liability and property damage insurance, fire insurance and compensation insurance of drivers shall be provided in the amount stated in section thirty-six hundred twenty-seven of this chapter and collision insurance shall be provided in the amount of value of the vehicle to protect the lessor. No part of the cost and expenses resulting from operation, maintenance and repair of such vehicles during the leasing thereof shall be included in determining the amount of any form of state aid received by such county vocational education and extension board.

§ 3. Section 1106 of the education law, as amended by chapter 293 of the laws of 1954, is amended to read as follows:

§ 1106. Transportation. 1. In a county which has a vocational education and extension board which does not furnish transportation to pupils pursuant to subdivision thirteen of section eleven hundred two of this [~~chapter~~] **part** the cost of the transportation of pupils under twenty-one years of age**, or under twenty-two years of age for a student with a disability as defined in section forty-four hundred one of this chapter,** to schools and classes maintained by such county vocational education and extension board shall be a charge upon the district in which such pupils reside, or are attending as non-resident pupils. Such transportation shall be considered as other transportation of school pupils in accordance with the provisions of part two of article seventy-three of [~~the education law~~] **this chapter** and the district of residence, or the district in which non-resident pupils are attending, shall be entitled to a transportation quota.

2. In a county which has a vocational education and extension board which furnishes transportation to pupils pursuant to subdivision thirteen of section eleven hundred two of this [~~chapter~~] **part**, such vocational education and extension board shall receive a transportation quota which shall be one-half of the cost of the transportation of pupils under twenty-one years of age**, or under twenty-two years of age for a student with a disability as defined in section forty-four hundred one of this chapter,** to schools and classes maintained by such vocational education and extension board.

§ 4. Subdivision 2 of section 1125 of the education law, as amended by chapter 363 of the laws of 2018, is amended to read as follows:

2. "Child" shall mean a person under the age of twenty-one years**, or under twenty-two years of age for a student with a disability as defined in section forty-four hundred one of this chapter,** enrolled in a school.

§ 5. The opening paragraph of section 2583 of the education law, as amended by chapter 655 of the laws of 1978, is amended to read as follows:

The board of education of the city of New York shall require from the officers conducting schools by appointment of the board, and from the trustees, managers or directors of the corporate schools entitled to participate in the funds of the board of education of the city of New York, an annual report in writing dated the thirty-first day of December, which shall be signed and certified by a majority of such officers, trustees, managers or directors, and which report shall state: the whole number of schools within their jurisdiction; the length of time each school shall have been kept open; the whole number of pupils over four and under twenty-one years of age**, or under twenty-two years of age for a student with a disability as defined in section forty-four hundred one of this chapter,** who shall have been taught free of expense to such pupils in their schools, during the year ending with the date of the report, which number shall be ascertained by adding to the number of children on register at the commencement of each year, the number admitted during that year, which shall be considered the total for that year; the average number that has actually attended such schools during the year, to be ascertained by the teachers keeping an exact account of the number of pupils present every school day or half day, which, being added together, and divided by four hundred sixty, or if less than a year by the number of school sessions, shall be considered the average of attending pupils, which average shall be affirmed or sworn to by the principal teacher of the school; a detailed statement of the amount of moneys received or expended for their respective schools during the year, from or by the commissioner of finance of such city, and of the purposes for and the manner in which the same shall have been expended; a particular account of the state of the schools, and of the property and affairs of each school under their care; the titles of all books used; and such other information as such board of education shall require.

§ 6. Section 3028-a of the education law, as amended by chapter 19 of the laws of 1987, is amended to read as follows:

§ 3028-a. Students under twenty-one years of age suspected of alcohol abuse or narcotic addiction. Any teacher, school administrator, school guidance counselor, school psychologist, school drug counselor, school nurse, supervisor of attendance, attendance teacher or attendance officer having reasonable cause to suspect that a secondary or elementary student under twenty-one years of age**, or under twenty-two years of age for a student with a disability as defined in section forty-four hundred one of this chapter,** is a substance or alcohol abuser or substance dependent, who report such information to the appropriate secondary or elementary school officials pursuant to the school's drug policy or if the school has no drug policy to the school's principal or the parents or legal guardians of such student under twenty-one years of age**, or under twenty-two years of age for a student with a disability as defined in section forty-four hundred one of this chapter,** shall have immunity from any civil liability that might otherwise be incurred or imposed as a result of the making of such a report.

§ 7. Subdivision 1 of section 3202 of the education law, as amended by section 47 of part PP of chapter 56 of the laws of 2022, is amended to read as follows:

1. A person over five and under twenty-one years of age**, or under twenty-two years of age for a student with a disability as defined in**

section forty-four hundred one of this chapter, who has not received a high school diploma is entitled to attend the public schools maintained in the district in which such person resides without the payment of tuition. Provided further that such person may continue to attend the public school in such district in the same manner, if temporarily residing outside the boundaries of the district when relocation to such temporary residence is a consequence of such person's parent or person in parental relationship being called to active military duty, other than training. Notwithstanding any other provision of law to the contrary, the school district shall not be required to provide transportation between a temporary residence located outside of the school district and the school the child attends. A veteran of any age who shall have served as a member of the armed forces of the United States and who (a) shall have been discharged therefrom under conditions other than dishonorable, or (b) has a qualifying condition, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, or (c) is a discharged LGBT veteran, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, may attend any of the public schools of the state upon conditions prescribed by the board of education, and such veterans shall be included in the pupil count for state aid purposes. A nonveteran under twenty-one years of age, or under twenty-two years of age for a student with a disability as defined in section forty-four hundred one of this chapter, who has received a high school diploma shall be permitted to attend classes in the schools of the district in which such person resides or in a school of a board of cooperative educational services upon payment of tuition under such terms and conditions as shall be established in regulations promulgated by the commissioner; provided, however, that a school district may waive the payment of tuition for such nonveteran, but in any case such a nonveteran who has received a high school diploma shall not be counted for any state aid purposes. Nothing herein contained shall, however, require a board of education to admit a child who becomes five years of age after the school year has commenced unless [~~his or her~~] their birthday occurs on or before the first of December.

§ 8. Paragraphs a and f of subdivision 7 of section 3202 of the education law, paragraph a as amended and paragraph f as added by chapter 564 of the laws of 2001, are amended to read as follows:

a. A person under twenty-one years of age, or under twenty-two years of age for a student with a disability as defined in section forty-four hundred one of this chapter, who has not received a high school diploma and who is incarcerated in a correctional facility maintained by a county or by the city of New York or in a youth shelter is eligible for educational services pursuant to this subdivision and in accordance with the regulations of the commissioner. Such services shall be provided by the school district in which the facility or youth shelter is located, within the limits of the funds allocated by the commissioner for such purposes pursuant to section thirty-six hundred two of this chapter and pursuant to a plan approved by the commissioner. School districts shall submit such plan by July fifteenth of each school year. Boards of education are authorized to contract for the provision of such educational services by a board of cooperative educational services or by another public school district.

f. As used in this subdivision, "youth shelter" shall mean an alternative residential facility for the incarceration of youths between the

ages of sixteen and twenty-one**, or under twenty-two years of age for a student with a disability as defined in section forty-four hundred one of this chapter,** who are remanded by the criminal courts.

§ 9. Subdivision 8 of section 3202 of the education law, as amended by chapter 569 of the laws of 1994, is amended to read as follows:

8. Homeless children. A homeless child, as defined in subdivision one of section thirty-two hundred nine of this [~~article~~] **part**, over the age of five and under twenty-one years of age, **or under twenty-two years of age for a student with a disability as defined in section forty-four hundred one of this chapter,** who has not received a high school diploma, shall be entitled to attend a public school without the payment of tuition, in accordance with the provisions of section thirty-two hundred nine of this [~~article~~] **part**.

§ 10. Paragraph e of subdivision 2 and subdivisions 4 and 6 of section 3212 of the education law, as amended by chapter 919 of the laws of 1974, are amended to read as follows:

e. Shall furnish, with respect to an individual from seventeen to twenty-one years of age, **or under twenty-two years of age for a student with a disability as defined in section forty-four hundred one of this chapter,** on demand of a duly authorized representative of the school authorities, satisfactory proof that [~~he~~] **such individual** is able to speak, read and write English as required for the completion of the fifth year of the elementary school course of study, or cause such individual to submit to an examination to determine [~~his~~] **their** ability in these respects.

4. Duties of certain individuals from sixteen to twenty-one years of age. An individual from sixteen to twenty-one years of age, **or under twenty-two years of age for a student with a disability as defined in section forty-four hundred one of this chapter,** if not under the control of a person in parental relation, shall comply with such requirements of **this** part [~~one of this article~~] as are applicable.

6. Birth certificates. For the purpose of **this** part [~~one of this article~~], the board of health upon request shall furnish to the school authorities, or to the person in parental relation to a minor, or to an individual from seventeen to twenty-one years of age, **or under twenty-two years of age for a student with a disability as defined in section forty-four hundred one of this chapter,** a duly certified transcript of the birth certificate, filed according to law, of an individual from five to twenty-one years of age**, or under twenty-two years of age for a student with a disability as defined in section forty-four hundred one of this chapter**.

§ 11. Subdivision 2-a of section 3214 of the education law, as added by chapter 181 of the laws of 2000, is amended to read as follows:

2-a. a. Violent pupil. For the purposes of this section, a violent pupil is an elementary or secondary student under twenty-one years of age**, or under twenty-two years of age for a student with a disability as defined in section forty-four hundred one of this chapter,** who:

(1) commits an act of violence upon a teacher, administrator or other school employee;

(2) commits, while on school district property, an act of violence upon another student or any other person lawfully upon said property;

(3) possesses, while on school district property, a gun, knife, explosive or incendiary bomb, or other dangerous instrument capable of causing physical injury or death;

(4) displays, while on school district property, what appears to be a gun, knife, explosive or incendiary bomb or other dangerous instrument capable of causing death or physical injury;

(5) threatens, while on school district property, to use any instrument that appears capable of causing physical injury or death;

(6) knowingly and intentionally damages or destroys the personal property of a teacher, administrator, other school district employee or any person lawfully upon school district property; or

(7) knowingly and intentionally damages or destroys school district property.

b. Disruptive pupil. For the purposes of this section, a disruptive pupil is an elementary or secondary student under twenty-one years of age**, or under twenty-two years of age for a student with a disability as defined in section forty-four hundred one of this chapter,** who is substantially disruptive of the educational process or substantially interferes with the teacher's authority over the classroom.

§ 12. Subdivisions 2, 3 and 4 of section 3241 of the education law, subdivision 2 as amended by chapter 266 of the laws of 1956, subdivision 3 as amended by chapter 855 of the laws of 1972, are amended to read as follows:

2. Such census shall include all persons between birth and eighteen years of age and in the case of [~~physically or mentally handicapped children~~] **a student with a disability, as defined in section forty-four hundred one of this chapter,** between birth and [~~twenty-one~~] **twenty-two** years of age, their names, their respective residences by street and number, the day of the month and the year of their birth, the names of the persons in parental relation to them, such information relating to [~~physical or mental defects, to illiteracy~~] **their disability**, to employment and to the enforcement of the law relating to child labor and compulsory education as the [~~education~~] department and the board of education of each such city shall require and also such further information as such board of education shall require.

3. Such board shall provide to the commissioner [~~of education~~] upon written request therefor and in such form as shall be prescribed by [~~him~~] **such commissioner**, a report containing the names, ages and addresses of those children who are blind or deaf and those having serious [~~physical or mental defects~~] **disabilities**. In addition such report shall indicate whether such children are being educated within the public schools of the district or, if they are not, where such education is being furnished them.

4. It shall be the duty of persons in parental relation to any person between such ages residing within the limits of any such city to make such reports as the board of education of such city shall require. Such reports shall contain the following information:

a. Two weeks before any child shall become of the compulsory school age, the name of such child, its residence, the name of the person or persons in parental relation thereto, and the name and location of the school to which such child shall have been or shall be sent as a pupil.

b. In case a child of compulsory school age shall, for any cause, be removed from one school and sent to another school, or sent to work in accordance with the labor law, all the facts in relation thereto.

c. In case the residence of a child shall be removed from one police precinct to another police precinct, the new residence and the other facts required in paragraphs a and b of this subdivision.

d. In case a child between birth and eighteen years of age **and in the case of a student with a disability, as defined in section forty-four**

hundred one of this chapter, between birth and twenty-two years of age, shall become a resident of such city for the first time, the name, residence and such other facts as the board of education shall require.

§ 13. Section 3242 of the education law, as amended by section 3 of part A of chapter 57 of the laws of 2013, is amended to read as follows:

§ 3242. School census in school districts. The trustees or board of education of every school district may cause a census to be taken of all children between birth and eighteen years of age, including all such facts and information as are required in the census provided for in section thirty-two hundred forty-one of this part. Such census shall be prepared biennially for children between ages five and eighteen who are entitled to attend the public schools without payment of tuition in duplicate in their respective school districts, and one copy thereof filed with the teacher or principal and the other copy filed with the district superintendent or superintendent on or before the fifteenth day of October. For pre-school students from birth to five years of age, such census may be prepared and filed biennially on or before the fifteenth day of October. Such census shall include the reports and information required from cities as provided in section thirty-two hundred forty-one of this part. All information regarding a student with a disability under the age of [~~twenty-one~~] **twenty-two** years shall be filed annually with the superintendent of the board of cooperative educational services of which said district may be a part.

§ 14. Subparagraph 1 of paragraph d of subdivision 1 of section 3602 of the education law, as amended by section 11 of part B of chapter 57 of the laws of 2007, is amended to read as follows:

(1) Equivalent attendance shall mean the quotient of the total number of student hours of instruction in programs in a public school of a school district or a board of cooperative educational services leading to a high school diploma or a high school equivalency diploma as defined in regulations of the commissioner for pupils under the age of twenty-one**, or under twenty-two years of age for a student with a disability as defined in section forty-four hundred one of this chapter,** not on a regular day school register of the district, divided by one thousand. Average daily attendance shall include the equivalent attendance of the school district. For the purposes of secondary school weighting, such equivalent attendance shall be considered as average daily attendance in grades seven through twelve.

§ 15. Paragraph a-1 of subdivision 11 of section 3602 of the education law, as amended by section 29-a of part A of chapter 56 of the laws of 2024, is amended to read as follows:

a-1. Notwithstanding the provisions of paragraph a of this subdivision, for aid payable in the school years two thousand--two thousand one through two thousand nine--two thousand ten, and two thousand eleven--two thousand twelve through two thousand twenty-four--two thousand twenty-five, the commissioner may set aside an amount not to exceed two million five hundred thousand dollars from the funds appropriated for purposes of this subdivision for the purpose of serving persons twenty-one years of age or older**, or under twenty-two years of age for a student with a disability as defined in section forty-four hundred one of this chapter,** who have not been enrolled in any school for the preceding school year, including persons who have received a high school diploma or high school equivalency diploma but fail to demonstrate basic educational competencies as defined in regulation by the commissioner, when measured by accepted standardized tests, and who shall be eligible

to attend employment preparation education programs operated pursuant to this subdivision.

§ 16. Section 4213 of the education law, as added by chapter 496 of the laws of 1986, is amended to read as follows:

§ 4213. Other persons eligible for appointment. In accordance with the provisions of the charter of the New York Institute for Special Education, and amendments thereto, as issued by the board of regents, children with handicapping conditions, other than handicapping conditions which would establish eligibility for appointment to the schools enumerated in this article, shall be eligible for appointment to the New York Institute for Special Education as state pupils. The provisions of this article shall apply but not necessarily be limited to the appointment, education, maintenance and support of such pupils. Such pupils eligible for appointment, pursuant to this section, shall be persons over five and under [~~twenty-one~~] **twenty-two** years of age who have not received a high school diploma.

§ 17. The opening paragraph of section 4355 of the education law, as amended by chapter 474 of the laws of 1996, is amended to read as follows:

1. All deaf or blind and deaf children between the age of three years and [~~twenty-one~~] **twenty-two** years**,** and of suitable capacity for instruction who are legal residents of the state shall be eligible for appointment to the New York state school for the deaf without charge for such period of time in each individual case as may be set by the commissioner, either: (i) upon the recommendation of the committee on special education or committee on preschool special education of the child's school district of residence, as applicable; or (ii) where the parents of a school age child make application directly to the commissioner or the school, upon recommendation of the school's multidisciplinary team in accordance with the joint placement procedures established in this section.

§ 18. Subdivision 1 of section 4401 of the education law, as amended by chapter 378 of the laws of 2007, is amended to read as follows:

1. A "child with a disability" or "student with a disability" means a person under the age of [~~twenty-one~~] **twenty-two** who is entitled to attend public schools pursuant to section thirty-two hundred two of this chapter and who, because of [~~mental~~] **cognitive**, physical or emotional reasons can only receive appropriate educational opportunities from a program of special education. Such term does not include a child whose educational needs are due primarily to unfamiliarity with the English language, environmental, cultural or economic factors. Lack of appropriate instruction in reading, including in the essential components of reading instruction as defined in subsection three of section twelve hundred eight of the elementary and secondary education act of nineteen hundred sixty-five, or lack of appropriate instruction in mathematics or limited English proficiency shall not be the determinant factor in identifying a student as a student with a disability. "Special education" means specially designed instruction which includes special services or programs as delineated in subdivision two of this section, and transportation, provided at no cost to the parents to meet the unique needs of a child with a disability. A "child with a handicapping condition" means a child with a disability.

§ 19. Subdivision 1 of section 4401 of the education law, as amended by chapter 311 of the laws of 1999, is amended to read as follows:

1. A "child with a disability" or "student with a disability" means a person under the age of [~~twenty-one~~] **twenty-two** who is entitled to

attend public schools pursuant to section thirty-two hundred two of this chapter and who, because of [~~mental~~] **cognitive**, physical or emotional reasons can only receive appropriate educational opportunities from a program of special education. Such term does not include a child whose educational needs are due primarily to unfamiliarity with the English language, environmental, cultural or economic factors. Lack of instruction in reading or mathematics or limited English proficiency shall not be the determinant factor in identifying a student as a student with a disability. "Special education" means specially designed instruction which includes special services or programs as delineated in subdivision two of this section, and transportation, provided at no cost to the parents to meet the unique needs of a child with a disability. A "child with a handicapping condition" means a child with a disability.

§ 20. Paragraph a of subdivision 1 of section 4402 of the education law, as amended by section 51-b of part L of chapter 405 of the laws 1999, is amended to read as follows:

a. The board of education or trustees of each school district and the city school district of the city of New York shall ascertain under regulations prescribed by the commissioner and approved by the regents of the university, the number of children with handicapping conditions in such district under the age of [~~twenty-one~~] **twenty-two** years and the nature of the handicapping condition of each such child in accordance with the provisions of this section, and shall maintain a register containing the name of each child with a handicapping condition who resides in the district, the nature of such child's handicapping condition, the educational placement and setting, if any, of such child.

§ 21. Clause (c) of subparagraph 3 of paragraph b of subdivision 1 of section 4402 of the education law, as amended by chapter 600 of the laws of 1994, is amended to read as follows:

(c) Provide written prior notice to the parents or person in parental relationship of the child upon receipt of referral for evaluation or whenever such committee plans to continue, modify or change the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education to the child and advise the parent of or person in parental relationship to the child of [~~his or her~~] **their** opportunity to address the committee, either in person or in writing, on the appropriateness of the committee's recommendations on program placements to be made to the board of education or trustees. Such notice shall, where a child has been placed in a residential program by a committee on special education, or has been determined to be at risk of such a placement pursuant to subparagraph four of **this** paragraph [~~b of subdivision one of section forty-four hundred two of this article~~], also notify the parent or other person in parental relationship that the child is not entitled to receive free educational services or to remain in a residential educational program after the age of [~~twenty-one~~] **twenty-two**, the receipt of a high school diploma or the time described in subdivision five of this section.

§ 22. Subdivision 5 of section 4402 of the education law, as amended by chapter 371 of the laws of 2023, is amended to read as follows:

5. Notwithstanding any provisions of this article to the contrary or the provisions of section thirty-two hundred two of this chapter, a child with a disability who reaches the age of [~~twenty-one~~] **twenty-two** during (a) the period commencing with the first day of July and ending on the thirty-first day of August shall if otherwise eligible, be entitled to continue in a July and August program until the thirty-first day of August or until the termination of the summer program, whichever

shall first occur; or (b) the period commencing on the first day of September and ending on the thirtieth day of June shall be entitled to continue in such program until the thirtieth day of June or until the termination of the school year, whichever shall first occur.

§ 23. Subdivision 8 of section 4402 of the education law, as added by chapter 434 of the laws of 2014, is amended to read as follows:

8. Upon their child's enrollment or attendance in a public school, such school shall notify every parent or person in parental relation of their rights regarding referral and evaluation of their child for the purposes of special education services or programs pursuant to applicable federal and state laws. Such notification may be provided by directing parents or persons in parental relation to obtain information located on the department's website relating to a parent's guide to special education in New York state for children ages three through [~~twenty-one~~] twenty-two provided the notification shall also contain the name and contact information for the chairperson of the school district's committee on special education or other individual who is charged with processing referrals to the committee in the district.

§ 24. Subdivision 3 of section 4410-b of the education law, as amended by chapter 437 of the laws of 2005, is amended to read as follows:

3. Federal flow-through funds. Each school district receiving an allocation of funds pursuant to section six hundred eleven of the individuals with disabilities education act for the nineteen hundred ninety-nine--two thousand school year or any subsequent school year shall sub-allocate such funds in accordance with this subdivision to other public and private agencies providing special education services to students ages three to [~~twenty-one~~] twenty-two who were placed in such agency by the school district's IEP team. For school years prior to two thousand six--two thousand seven, such sub-allocations shall be made on a per capita basis, based upon the number of students three to [~~twenty-one~~] twenty-two years of age who were placed in such agency by the school district's IEP team and were served by the public or private agency as of December first of the base year, as reported to the commissioner; and, for the school year two thousand six--two thousand seven and thereafter, such sub-allocations shall be made on a per capita basis, based upon the number of students three to [~~twenty-one~~] twenty-two years of age who were placed in such agency by the school district's IEP team and who were receiving special education programming and instruction from the public or private agency as of December first of the base year, as reported to the commissioner, and according to a formulae based upon the number of students three to [~~twenty-one~~] twenty-two years of age who were receiving related services only from the public or private agency as of December first of the base year, as reported to the commissioner, such that such sub-allocation shall be in an amount determined in accordance with the provisions of this subdivision. For the school year two thousand six--two thousand seven, the per capita sub-allocation shall be adjusted whereby each student three to [~~twenty-one~~] twenty-two years of age who was placed in an agency by the school district's IEP team and who is receiving special education programming and instruction therefrom shall be counted as one per capita and each such student who is receiving related services only from such public or private agency shall be counted as two-thirds of a per capita, for purposes of determining such per capita sub-allocation for such school year and that for the school year two thousand seven--two thousand eight and thereafter, shall be counted as one-third for the purposes of determining the per capita sub-allocation for such school

year; provided, however, that any municipality which, prior to July first, two thousand three, operated an approved special education itinerant teacher program for students three to five years of age who were placed in such program by a school district's IEP team, shall be deemed to be a public or private agency for purposes of this section and the sub-allocation directed by this subdivision shall be made on a per capita basis, based upon the number of students, three to [~~twenty-one~~] twenty-two years of age who are receiving special education programming and instruction and related services only therefrom. Payments of such sub-allocation shall be made in the same proportion as such funds are paid to the school district by the state within thirty days after: (i) the school district receives any portion of its allocation of funds for the current year pursuant to section six hundred eleven of the individuals with disabilities education act; or (ii) the school district receives an application for a sub-allocation by a public or private agency, or, for the nineteen hundred ninety-nine--two thousand school year only, the school district receives notice from the commissioner that such an application for a sub-allocation has been filed with the commissioner; whichever occurs later.

§ 25. Subparagraph 1 of paragraph b of subdivision 8 of section 4410-b of the education law, as added by chapter 437 of the laws of 2005, is amended to read as follows:

(1) develop forms to be submitted by school districts that report the number of students three to [~~twenty-one~~] twenty-two years of age who are placed in a public or private agency providing special education services and who are receiving special education programming and instruction from such agency, and the number of such students who are receiving related services only from such agency; and

§ 26. Subdivision 22 of section 305 of the education law, as added by chapter 262 of the laws of 1988 and as renumbered by chapter 627 of the laws of 1989, is amended to read as follows:

22. The commissioner shall establish the procedures for a statewide system of assigning unique student identification numbers for all students in public and nonpublic schools within the state for purposes of student tracking and for state reporting purposes. Students shall retain their numbers until they attain the age of twenty-one, or until they attain the age of twenty-two for students with a disability as defined in section forty-four hundred one of this chapter. As new students enter schools in New York, they shall be assigned a unique number. The commissioner shall include in such system appropriate procedures for insuring security and confidentiality of student information. The commissioner shall adopt regulations to provide for the implementation of such statewide system by school districts and nonpublic schools.

§ 27. Subdivision 4 of section 4001 of the education law, as added by chapter 563 of the laws of 1980 and as renumbered by chapter 947 of the laws of 1981, is amended to read as follows:

4. "Child with a [~~handicapping condition~~] disability" or "student with a disability" shall mean a person between the ages of five and [~~twenty-one~~] twenty-two who has been identified through appropriate evaluation and assessment as having a disability arising from cognitive, emotional or physical factors, or any combination thereof, which interferes with the child's ability to benefit from regular education.

§ 28. Subdivision 1 of section 4002 of the education law, as added by chapter 563 of the laws of 1980, is amended to read as follows:

1. Each child between the ages of five and [~~twenty-one~~] twenty-two who resides in a child care institution and who has not yet graduated from

high school shall be entitled to receive a free and appropriate education in the least restrictive environment for that child.

§ 29. Subdivision 1 of section 4408 of the education law, as amended by section 32 of part A-1 of chapter 58 of the laws of 2006, is amended to read as follows:

1. State aid. The commissioner shall make payments for approved July and August programs for students with disabilities in accordance with this section in an amount equal to eighty percent of the sum of the approved tuition and maintenance rates and the transportation expense for the current year enrollment of students with disabilities ages five through [~~twenty-one~~] twenty-two or students eligible for services during July and August pursuant to article eighty-five, eighty-seven or eighty-eight of this [~~chapter~~] title, where such costs are determined pursuant to section forty-four hundred five of this article, provided that the placement of such students was approved by the commissioner, if required. Such programs shall operate for six weeks and shall be funded for thirty days of service, provided, however, that the observance of the legal holiday for Independence day may constitute a day of service. Upon certification by the school district in which the student resides, that such services were provided, such payment shall be made to the provider of such services, in accordance with the provisions of subdivision three of this section.

§ 30. Subdivisions (b) and (c) of section 7.37 of the mental hygiene law, subdivision (b) as amended by chapter 600 of the laws of 1994, and subdivision (c) as added by chapter 570 of the laws of 1983, are amended to read as follows:

(b) Upon receipt of a report, the commissioner shall review the report and shall determine if the child will likely need adult services. If necessary and appropriate, the commissioner may conduct an evaluation of the child to determine if adult services will be needed. Such evaluation shall include, but not be limited to, the medical, vocational or day services and social needs of the child, the desires of the child and of [~~his or her~~] their parents or guardian, and the availability of appropriate services. If the child will likely need adult services, the commissioner shall develop a plan for continued care which shall include any evaluation and shall identify those adult programs or services which may be available and which are operated or licensed by the office and by the local governmental unit of the county in which the child resides, or in the event that the child resides in a county within the city of New York, the local governmental unit of the city of New York. Such written plan shall be made available to the individual, unless the individual objects, and [~~his or her~~] their parents or guardian as soon as practicable but not later than one year before the individual attains the age of [~~twenty-one~~] twenty-two. If such recommendation has been made prior to one year before the individual attains the age of [~~twenty~~] twenty-one, the office shall provide yearly updates until the individual attains the age of [~~twenty-one~~] twenty-two.

(c) If the commissioner determines, pursuant to subdivision (b) of this section, that such child will not require adult services, the commissioner shall notify the child's parent or guardian in writing of such determination. Such notice shall be given as soon as practicable but no later than six months before the child attains the age of [~~twenty-one~~] twenty-two.

§ 31. Subdivision (a) of section 7.37-a of the mental hygiene law, as added by chapter 405 of the laws of 1998, is amended to read as follows:

(a) For purposes of this section, "transitional care" shall mean care and maintenance of persons:

1. who were placed in foster care by a social services district pursuant to article six of the social services law and who have become twenty-one years of age, **or who have become twenty-two years of age for a student with a disability as defined in section forty-four hundred one of the education law,** or who were placed in a residential educational placement by a school district pursuant to article eighty-nine of the education law and who are no longer eligible for free educational services because they have completed the school year in which they became [~~twenty-one~~] **twenty-two**;

2. who were disabled and in need of residential care prior to becoming age twenty-one**, or becoming age twenty-two for a student with a disability as defined in section forty-four hundred one of the education law,** or prior to becoming ineligible for free education services and who have since remained continuously disabled and continuously in need of residential care;

3. who became twenty-one**, or twenty-two for a student with a disability as defined in section forty-four hundred one of the education law,** or became ineligible for free educational services prior to July first, nineteen hundred ninety-six;

4. with respect to whom the office has approved a plan of continued out of home care for the person but has not yet identified a currently available appropriate placement;

5. whose residential needs can be met by the facility in which the persons resided prior to becoming age [~~twenty-one~~] **twenty-two** or becoming ineligible for free educational services; and

6. who on July first, nineteen hundred ninety-eight are in receipt of transitional care, or who have continuously remained in the foster care or residential education placement where they had received transitional care.

§ 32. Paragraph 1 of subdivision (c) section 7.37-a of the mental hygiene law, as added by chapter 405 of the laws of 1998, is amended to read as follows:

1. the office has an agreement with the residential facility for continued care of qualified persons at rates which are no greater than the rates that would have been available if such persons were under age [~~twenty-one~~] **twenty-two**;

§ 33. Subdivision (a) of section 7.38 of the mental hygiene law, as amended by chapter 37 of the laws of 2011, is amended to read as follows:

(a) The office shall, in consultation with the department of social services, the education department, the office for people with developmental disabilities, and the council on children and families, develop a plan and implement procedures to help assure that all persons who are at the age or time to first qualify for transitional care as described in section 7.37-a of this article, and for whom the office has accepted planning responsibilities, receive assistance in locating an appropriate and available residential placement or plan of services, within the state and within the system of care subject to the jurisdiction of the office, prior to the age or time at which they would otherwise have qualified for transitional care, if such individual had become [~~twenty-one~~] **twenty-two** or become ineligible for educational services prior to July first, nineteen hundred ninety-six. For purposes of this section, the age or time at which a person would qualify for transitional care is twenty-one for persons in foster care, and the end of the school year in

which they become twenty-one for persons in residential schools**, except that in the case of students with disabilities as defined in section forty-four hundred one of the education law, the age or time at which a person would qualify for transitional care is twenty-two**.

§ 34. Subdivisions (b) and (c) of section 13.37 of the mental hygiene law, as amended by chapter 508 of the laws of 2008, are amended to read as follows:

(b) Upon receipt of a report, the commissioner shall review the report and shall determine if the child will likely need adult services. If necessary and appropriate, the commissioner may conduct an evaluation of the child to determine if adult services will be needed. Such evaluation shall include, but not be limited to, the medical, vocational or day services and social needs of the child, the desires of the child and of [~~his or her~~] **their** parents or guardian, and the availability of appropriate services. If the child will likely need adult services, the commissioner shall develop a plan for continued care which shall include any evaluation and shall identify those adult programs or services which may be available and which are operated or licensed by the office and by the local governmental unit of the county in which the child resides, or in the event that the child resides in a county within the city of New York, the local governmental unit of the city of New York. Such written plan shall be made available to the individual and, unless the individual objects, to [~~his or her~~] **their** parents or guardian as soon as practicable but not later than one year before the individual attains the age of [~~twenty-one~~] **twenty-one**. If such recommendation has been made prior to one year before the individual attains the age of [~~twenty~~] **twenty-one**, the office shall provide yearly updates until the individual attains the age of [~~twenty-one~~] **twenty-two**.

(c) If the commissioner determines, pursuant to subdivision (b) of this section, that such child will not require adult services, the commissioner shall notify the child's parent or guardian and the committee on special education, multidisciplinary team or social services official, which submitted the report, in writing of such determination. Such notice shall be given as soon as practicable but no later than six months before the child attains the age of [~~twenty-one~~] **twenty-two**. Such notice shall state the reasons for the determination and may recommend a state agency which may be responsible for determining and recommending adult services. If such determination is not acceptable to the child's parent or guardian, such person may appeal the determination pursuant to regulations adopted by the commissioner.

§ 35. Subdivision (a) of section 13.37-a of the mental hygiene law, as amended by chapter 106 of the laws of 2015, is amended to read as follows:

(a) For purposes of this section, "transitional care" shall mean care and maintenance of persons:

1. who were placed in foster care by a social services district pursuant to article six of the social services law and who have become twenty-one years of age**, or have become twenty-two years of age for a student with a disability as defined in section forty-four hundred one of the education law**, or who were placed in a residential educational placement by a school district pursuant to article eighty-nine of the education law and who are no longer eligible for free educational services because they have completed the school year in which they became [~~twenty-one~~] **twenty-two**;

2. who were disabled and in need of residential care prior to becoming age [~~twenty-one~~] **twenty-two** or prior to becoming ineligible for free

education services and who have since remained continuously disabled and continuously in need of residential care;

3. who became twenty-one, or twenty-two for a student with a disability as defined in section forty-four hundred one of the education law, or became ineligible for free educational services prior to July first, nineteen hundred ninety-six;

4. with respect to whom the office has approved a plan of continued out of home care for the person but has not yet identified a currently available appropriate placement;

5. whose residential needs can be met by the facility in which the persons resided prior to becoming age twenty-one, or twenty-two for a student with a disability as defined in section forty-four hundred one of the education law, or becoming ineligible for free educational services; and

6. who on July first, nineteen hundred ninety-eight are in receipt of transitional care, or who have continuously remained in the foster care or residential education placement where they had received transitional care.

§ 36. Paragraph 1 of subdivision (c) of section 13.37-a of the mental hygiene law, as added by chapter 405 of the laws of 1998, is amended to read as follows:

1. the office has an agreement with the residential facility for continued care of qualified persons at rates which are no greater than the rates that would have been available if such persons were under age [~~twenty-one~~] twenty-two;

§ 37. Subdivision (a) of section 13.38 of the mental hygiene law, as amended by chapter 106 of the laws of 2015, is amended to read as follows:

(a) The office shall, in consultation with the department of social services, the education department, the office of mental health, and the council on children and families, develop a plan and implement procedures to help assure that all persons who are at the age or time to first qualify for transitional care, as described in section 13.37-a of this article, and for whom the office has accepted planning responsibilities, receive assistance in locating an appropriate and available residential placement or plan of services, within the state and within the system of care subject to the jurisdiction of the office, prior to the age or time at which they would otherwise have qualified for transitional care, if such individuals had become twenty-one, or twenty-two for a student with a disability as defined in section forty-four hundred one of the education law, or become ineligible for educational services prior to July first, nineteen hundred ninety-six. For purposes of this section, the age or time at which a person would qualify for transitional care is twenty-one, or twenty-two for a student with a disability as defined in section forty-four hundred one of the education law, for persons in foster care, and the end of the school year in which they become [~~twenty-one~~] twenty-two for persons in residential schools.

§ 38. Paragraph 4 of subdivision (g) of section 29.15 of the mental hygiene law, as amended by chapter 273 of the laws of 1986, is amended to read as follows:

4. The notification of the appropriate school district and the committee on special education regarding the proposed discharge or release of a patient under [~~twenty-one~~] twenty-two years of age, consistent with all applicable federal and state laws relating to confidentiality of such information.

§ 39. Section 33.11 of the mental hygiene law, as amended by chapter 168 of the laws of 2010, is amended to read as follows:

§ 33.11 Education for children with mental disabilities.

The office of mental health and the office for people with developmental disabilities shall provide the same education for patients in office of mental health hospitals and residents in office for people with developmental disabilities schools who are between the ages of five and [~~twenty-one~~] twenty-two which they would otherwise be entitled to receive in their local school districts pursuant to article eighty-nine of the education law. The cost of such education shall be a charge upon and shall be paid by the office of mental health or the office for people with developmental disabilities when received within such a hospital or school by a patient or resident therein. Such education shall be adapted to the mental attainments of such children. Provided, however, that such children as can benefit therefrom shall be admitted to the schools of the school district in which such hospital or school is located in accordance with regulations of the commissioner of education developed in consultation with the commissioners of mental health and developmental disabilities. The cost of such instruction less the state aid attributed to such child, shall be a charge upon the school district in which the child resided at the time of admission to the state hospital or school, except in those cases as provided in paragraph c of subdivision five of section thirty-two hundred two of the education law.

§ 40. Subdivision (c) of section 118 of the social services law, as amended by chapter 909 of the laws of 1974, is amended to read as follows:

(c) if a child under the age of twenty-one years, or twenty-two years for a student with a disability as defined in section forty-four hundred one of the education law, in a boarding home under the care of an authorized agency, or

§ 41. Subdivisions 2 and 4 of section 169 of the social services law, as amended by chapter 909 of the laws of 1974, are amended to read as follows:

2. The [~~wife, husband~~] spouse, child or grandchild under the age of twenty-one years, or twenty-two years for a student with a disability as defined in section forty-four hundred one of the education law, [~~father, mother, stepfather or stepmother~~] parent or stepparent of a veteran, if living with the veteran;

4. The dependent children under the age of twenty-one years, or twenty-two years for a student with a disability as defined in section forty-four hundred one of the education law, or the incapacitated children of a deceased veteran.

§ 42. Paragraph (a) of subdivision 2 of section 350-j of the social services law, as amended by section 38 of part B of chapter 436 of the laws of 1997, is amended to read as follow:

(a) where the child is under twenty-one years of age, or twenty-two years for a student with a disability as defined in section forty-four hundred one of the education law; and

§ 43. Subdivision 1 of section 386 of the social services law, as amended by chapter 555 of the laws of 1978, is amended to read as follows:

1. The board or the department is authorized to visit, in its discretion, any minor under the age of twenty-one years, or twenty-two years for a student with a disability as defined in section forty-four

hundred one of the education law, committed, placed out or boarded out and not legally adopted or in the custody of a legal guardian.

§ 44. Paragraph (h) of subdivision 6 of section 398 of the social services law, as amended by chapter 387 of the laws of 1999, is amended to read as follows:

(h) Supervise children who have been cared for away from their families until such children become twenty-one years of age, or twenty-two years of age for a student with a disability as defined in section forty-four hundred one of the education law, or until they are discharged to their own parents, relatives within the third degree or guardians, or adopted, provided, however, that in the case of a child who is developmentally disabled as such term is defined in section 1.03 of the mental hygiene law, emotionally disturbed or physically handicapped, and who is receiving care in a group home, agency boarding home or any child care facility operated by an authorized agency with a capacity of thirteen or more children, and who is in receipt of educational services and under the care and custody of a local department of social services, the commissioner of the office of children and family services shall allow such child who reaches the age of twenty-one, or twenty two in the case of a student with a disability as defined in section forty-four hundred one of the education law, during the period commencing on the first day of September and ending on the thirtieth day of June to be entitled to continue in such program until the thirtieth day of June or until the termination of the school year, whichever shall first occur.

§ 45. Subdivisions 1 and 2 of section 398-c of the social services law, as added by chapter 570 of the laws of 1983, are amended to read as follows:

1. The commissioner shall determine whether a child, whose report is submitted to the department pursuant to subparagraph five of paragraph b of subdivision one of section forty-four hundred two of the education law or subdivision thirteen of section three hundred ninety-eight of this article, will likely need adult services and, if such need will likely exist, develop a recommendation of all appropriate programs authorized or operated by the department which may be available when the child attains the age of [~~twenty-one~~] twenty-two. If necessary and appropriate, the commissioner may conduct an evaluation of the child to determine if adult services will be necessary. Such recommendation of all programs shall be made available to the parent or guardian of such child as soon as practicable but no later than six months before such child attains the age of [~~twenty-one~~] twenty-two.

2. If the commissioner determines pursuant to subdivision one of this section, that such child will not require adult services, the commissioner shall notify the child's parent or guardian in writing of such determination. Such notice shall be given as soon as practicable but no later than six months before the child attains the age of [~~twenty-one~~] twenty-two.

§ 46. Subparagraph (i) of paragraph (a) of subdivision 1 of section 409-a of the social services law, as amended by chapter 342 of the laws of 2010, is amended to read as follows:

(i) the child will be placed, returned to or continued in foster care unless such services are provided and that it is reasonable to believe that by providing such services the child will be able to remain with or be returned to [~~his or her~~] their family, and for a former foster care youth under the age of twenty-one, or twenty-two in the case of a student with a disability as defined in section forty-four hundred one

of the education law, who was previously placed in the care and custody or custody and guardianship of the local commissioner of social services or other officer, board or department authorized to receive children as public charges where it is reasonable to believe that by providing such services the former foster care youth will avoid a return to foster care or

§ 47. Subdivision 5 of section 430 of the social services law, as added by chapter 906 of the laws of 1976, is amended to read as follows:

5. As used in this title, "day services" shall mean care and treatment for part of the day of one or more children under eighteen years of age and their families in a program which provides to such children and families in accordance with their needs various services such as psychiatric, psychological, social casework, educational, vocational, health, transportation and such other services as may be appropriate. Such services shall be provided in accordance with program standards promulgated by the department. Day services may be continued after the eighteenth birthday of a child in the care of an authorized agency and until [~~he~~] such child becomes twenty-one years of age, or twenty-two years of age in the case of a student with a disability as defined in section forty-four hundred one of the education law. Day services shall not be provided to any children and their families for periods in excess of one year, without the approval of the department.

§ 48. This act shall take effect immediately; provided that the amendments to subdivision 1 of section 4401 of the education law made by section eighteen of this act shall be subject to the expiration and reversion of such subdivision pursuant to section 22 of chapter 352 of the laws of 2005, as amended, and subdivision d of section 27 of chapter 378 of the laws of 2007, as amended, when upon such date the provisions of section nineteen of this act shall take effect; provided further that section twenty of this act shall take effect on the same date as the reversion of paragraph a of subdivision 1 of section 4402 of the education law, as provided in section 22 of chapter 352 of the laws of 2005, as amended.