

9209

2009-2010 Regular Sessions

I N A S S E M B L Y

October 21, 2009

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

AN ACT to amend the education law, in relation to gifted and talented pupils with special needs, and to repeal certain provisions of such law related thereto

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivision 1 of section 3602-c of the education law is
2 amended by adding a new paragraph g to read as follows:

3 G. "TWICE-EXCEPTIONAL" SHALL MEAN THOSE PUPILS WHO HAVE DISABILITIES
4 AND SHOW EVIDENCE OF HIGH COGNITIVE PROCESSING CAPABILITIES IN WAYS
5 OTHER THAN ASSUMED BY CONVENTIONAL METHODS, GENERAL EDUCATION OR HIGH
6 PERFORMANCE CAPABILITY AND EXCEPTIONAL POTENTIAL IN AREAS SUCH AS GENER-
7 AL INTELLECTUAL ABILITY, SPECIAL ACADEMIC APTITUDE AND OUTSTANDING ABIL-
8 ITY IN VISUAL AND PERFORMING ARTS. SUCH TERM SHALL INCLUDE THOSE PUPILS
9 WHO REQUIRE EDUCATIONAL PROGRAMS OR SERVICES BEYOND THOSE NORMALLY
10 PROVIDED BY THE REGULAR SCHOOL PROGRAM IN ORDER TO REALIZE THEIR FULL
11 POTENTIAL.

12 S 2. Paragraph a of subdivision 1 of section 3602-c of the education
13 law, as amended by chapter 474 of the laws of 2004, is amended to read
14 as follows:

15 a. "Services" shall mean instruction in the areas of gifted pupils,
16 TWICE-EXCEPTIONAL PUPILS, career education and education for students
17 with disabilities, and counseling, psychological and social work
18 services related to such instruction provided during the regular school
19 year for pupils enrolled in a nonpublic school located in a school
20 district, provided that such instruction is given to pupils enrolled in
21 the public schools of such district.

22 S 3. Section 4451 of the education law, as added by chapter 740 of the
23 laws of 1982, is amended to read as follows:

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

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1 S 4451. Powers of the department with respect to gifted pupils.
2 [Subject to the availability of funds, the] THE state education depart-
3 ment is hereby authorized [and], empowered AND DIRECTED to assist
4 districts in meeting the educational needs EQUALLY of BOTH GENERAL
5 EDUCATION AND DISABLED gifted pupils through the following:

6 1. provide information to school districts concerning development of
7 programs, curriculum resources, instructional procedures and strategies
8 to identify and encourage EQUALLY BOTH GENERAL EDUCATION AND DISABLED
9 gifted pupils;

10 2. provide technical assistance and [inservice] IN-SERVICE education
11 for teachers and administrators;

12 3. maintain a record of programs available, and make this record
13 available for public inspection;

14 4. develop, maintain, and distribute a handbook for parents of BOTH
15 GENERAL EDUCATION AND DISABLED gifted pupils.

16 S 4. The opening paragraph of subdivision 1 of section 4452 of the
17 education law, as added by chapter 740 of the laws of 1982, is amended
18 to read as follows:

19 In order to provide for educational programs to meet special needs of
20 gifted pupils, the commissioner is hereby authorized AND DIRECTED to
21 make recommendations to school districts in accordance with the
22 provisions of this subdivision and section thirty-six hundred two of
23 this chapter.

24 S 5. Subdivision 1 of section 4452 of the education law is amended by
25 adding a new paragraph a-1 to read as follows:

26 A-1. AS USED IN THIS ARTICLE, THE TERM "TWICE-EXCEPTIONAL" SHALL MEAN
27 THOSE PUPILS WHO HAVE DISABILITIES AND SHOW EVIDENCE OF HIGH COGNITIVE
28 PROCESSING CAPABILITIES IN WAYS OTHER THAN ASSUMED BY CONVENTIONAL METH-
29 ODS, GENERAL EDUCATION OR HIGH PERFORMANCE CAPABILITY AND EXCEPTIONAL
30 POTENTIAL IN AREAS SUCH AS GENERAL INTELLECTUAL ABILITY, SPECIAL ACADEM-
31 IC APTITUDE AND OUTSTANDING ABILITY IN VISUAL AND PERFORMING ARTS. SUCH
32 DEFINITION SHALL INCLUDE THOSE PUPILS WHO REQUIRE EDUCATIONAL PROGRAMS
33 OR SERVICES BEYOND THOSE NORMALLY PROVIDED BY THE REGULAR SCHOOL PROGRAM
34 IN ORDER TO REALIZE THEIR FULL POTENTIAL.

35 (I) FOR THE PURPOSE OF THIS ARTICLE, THE TERMS "DISABILITY" AND "DISA-
36 BLED" SHALL MEAN A CHILD:

37 A. WITH HEARING IMPAIRMENTS (INCLUDING DEAFNESS), SPEECH OR LANGUAGE
38 IMPAIRMENTS, VISUAL IMPAIRMENTS (INCLUDING BLINDNESS), EMOTIONAL
39 DISTURBANCE, ORTHOPEDIC IMPAIRMENTS, OTHER HEALTH IMPAIRMENTS, OR
40 SPECIFIC LEARNING DISABILITIES; AND

41 B. WHO, BY REASON THEREOF, NEEDS SPECIAL EDUCATION AND RELATED
42 SERVICES WITHIN A GIFTED PROGRAM.

43 (II) FOR PURPOSES OF THIS ARTICLE, THE TERM "SPECIFIC LEARNING DISA-
44 BILITY" MEANS A DISORDER IN ONE OR MORE OF THE BASIC PSYCHOLOGICAL PROC-
45 ESSES INVOLVED IN UNDERSTANDING OR IN USING LANGUAGE, SPOKEN OR WRITTEN,
46 WHICH DISORDER MAY MANIFEST ITSELF IN THE IMPERFECT ABILITY TO LISTEN,
47 THINK, SPEAK, READ, WRITE, SPELL, OR DO MATHEMATICAL CALCULATIONS.

48 S 6. Paragraphs c, d, e and f of subdivision 1 of section 4452 of the
49 education law are REPEALED and five new paragraphs c, d, e, f and g are
50 added to read as follows:

51 C. PRIOR TO PAYMENT OF STATE FUNDS FOR EDUCATION OF GIFTED PUPILS AND
52 TWICE-EXCEPTIONAL PUPILS, A SCHOOL DISTRICT SHALL SUBMIT TO THE COMMIS-
53 SIONER A SUMMARY PLAN FOR THE IDENTIFICATION AND EDUCATION OF GIFTED
54 PUPILS AND TWICE-EXCEPTIONAL PUPILS. THE PLAN SHALL BE IN FORM AND
55 CONTENT AS PRESCRIBED BY THE COMMISSIONER.

1 D. UPON ACCEPTANCE BY A LOCAL SCHOOL DISTRICT OF THE APPORTIONMENTS
2 MADE UNDER SECTION THIRTY-SIX HUNDRED TWO OF THIS CHAPTER SUCH DISTRICT
3 SHALL USE SUCH FUNDING IN ACCORDANCE WITH GUIDELINES TO BE ESTABLISHED
4 BY THE COMMISSIONER FOR SERVICES TO GIFTED PUPILS AND TWICE-EXCEPTIONAL
5 PUPILS. SUCH SERVICES SHALL INCLUDE BUT NOT BE LIMITED TO IDENTIFICA-
6 TION, INSTRUCTIONAL PROGRAMS, PLANNING, IN-SERVICE EDUCATION AND PROGRAM
7 EVALUATION. A BOARD OF EDUCATION MAY CONTRACT WITH ANOTHER DISTRICT OR
8 BOARD OF COOPERATIVE EDUCATIONAL SERVICES TO PROVIDE THE PROGRAM AND/OR
9 SERVICES WITH THE APPROVAL OF THE COMMISSIONER UNDER GUIDELINES ESTAB-
10 LISHED BY THE COMMISSIONER.

11 E. THE IDENTIFICATION OF PUPILS FOR PARTICIPATION IN EITHER GIFTED
12 PROGRAMS OR TWICE-EXCEPTIONAL PROGRAMS FUNDED UNDER THIS CHAPTER SHALL
13 COMMENCE THROUGH THE REFERRAL OF A PARENT, TEACHER OR ADMINISTRATOR.

14 F. UPON REFERRAL OF A PUPIL FOR PARTICIPATION IN EITHER A GIFTED
15 PROGRAM OR TWICE-EXCEPTIONAL PROGRAM FUNDED UNDER THIS CHAPTER, THE
16 SCHOOL DISTRICT SHALL SO INFORM THE PARENT OR GUARDIAN OF SUCH PUPIL'S
17 REFERRAL AND SHALL SEEK THEIR APPROVAL TO ADMINISTER DIAGNOSTIC TESTS OR
18 OTHER EVALUATION MECHANISMS RELATED TO THE PROGRAM OBJECTIVES OF THE
19 DISTRICT IN ORDER TO DETERMINE ELIGIBILITY FOR PARTICIPATION IN SUCH
20 GIFTED OR TWICE-EXCEPTIONAL PROGRAM. FAILING TO RECEIVE APPROVAL, THE
21 CHILD SHALL NOT BE TESTED, EVALUATED OR PARTICIPATE IN THE PROGRAM. IN
22 NO CASE SHALL THE PARENT, GUARDIAN OR PUPIL BE CHARGED A FEE FOR THE
23 ADMINISTRATION OF SUCH DIAGNOSTIC TESTS OR OTHER EVALUATION MECHANISMS.

24 G. THE PARENT OR GUARDIAN OF A PUPIL DESIGNATED AS GIFTED OR TWICE-EX-
25 CEPTIONAL SHALL BE INFORMED BY THE LOCAL SCHOOL AUTHORITIES OF THE
26 PUPIL'S PLACEMENT IN SUCH GIFTED OR TWICE-EXCEPTIONAL PROGRAM FUNDED
27 UNDER THIS CHAPTER.

28 S 7. Section 4453 of the education law is REPEALED and a new section
29 4453 is added to read as follows:

30 S 4453. ADVISORY COUNCIL ON THE EDUCATION OF GIFTED PUPILS. 1. THE
31 COMMISSIONER SHALL ESTABLISH WITHIN THE DEPARTMENT AN ADVISORY COUNCIL
32 ON THE EDUCATION OF GIFTED AND TWICE-EXCEPTIONAL PUPILS. SUCH COUNCIL
33 SHALL ASSIST AND ADVISE THE COMMISSIONER AND HIS DESIGNEES WITH RESPECT
34 TO POLICIES AND PROCEDURES RELATING TO THE EDUCATION OF GIFTED AND
35 TWICE-EXCEPTIONAL PUPILS AND PROGRAMS ASSOCIATED THEREWITH.

36 2. SUCH ADVISORY COUNCIL APPOINTED BY THE COMMISSIONER SHALL CONSIST
37 OF AT LEAST TEN MEMBERS, WHO ARE DIRECTLY CONCERNED WITH GENERAL EDUCA-
38 TION AND DISABLED GIFTED PUPILS OR WHO HAVE SPECIALIZED IN THE EDUCATION
39 OF SUCH PUPILS, PROVIDED, HOWEVER THAT SUCH ADVISORY COUNCIL SHALL
40 INCLUDE AT LEAST A PLURALITY OF PARENTS OF SUCH PUPILS, INCLUDING
41 PARENTS OF THOSE TWICE-EXCEPTIONAL PUPILS. THE MEMBERS SHALL BE RESI-
42 DENTS OF THIS STATE AND SHALL BE SELECTED ON THE BASIS OF THEIR COMPE-
43 TENCE, CONCERN, AND PROFESSIONAL ACTIVITY IN THE EDUCATION OF GIFTED AND
44 TWICE-EXCEPTIONAL PUPILS.

45 3. THE ADVISORY COUNCIL SHALL MEET AT LEAST THREE TIMES EACH YEAR AT A
46 LOCATION TO BE DETERMINED BY THE COMMISSIONER. THE ADVISORY COUNCIL
47 SHALL REPORT AT LEAST BIANNUALLY TO THE COMMISSIONER.

48 S 8. This act shall take effect April 1, 2010; provided, however, that
49 effective immediately, the addition, amendment and/or repeal of any rule
50 or regulation necessary for the implementation of this act on its effec-
51 tive date is authorized to be made and completed on or before such date.