S T A T E O F N E W Y O R K

9763

I N A S S E M B L Y

January 22, 2010

Introduced by M. of A. SCARBOROUGH, PERRY, REILLY, MAYERSOHN, CLARK, SCHROEDER, JAFFEE, CASTRO, TITONE -- Multi-Sponsored by -- M. of A. MARKEY, SKARTADOS, TOWNS -- read once and referred to the Committee on Education

AN ACT to amend the social services law, the family court act and the education law, in relation to educational stability for children who are homeless and in out-of-home care

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

Section 1. The social services law is amended by adding a new section 373-b to read as follows:

S 373-B. SCHOOL PLACEMENT. 1. THE LEGISLATURE RECOGNIZES THAT THE EDUCATIONAL OUTCOMES OF ALL CHILDREN ARE CRITICAL TO BECOMING PRODUCTIVE CITIZENS. IN TODAY'S ECONOMY, EDUCATIONAL ATTAINMENT IS DIRECTLY LINKED TO EMPLOYMENT OPPORTUNITIES AND WAGES EARNED. REGARDLESS OF FAMILY OR FOSTER CARE STATUS, UNPLANNED SCHOOL MOBILITY IS CONSIDERED TO HAVE UNFAVORABLE CONSEQUENCES FOR ACADEMIC SUCCESS, SELF ESTEEM AND CLASSROOM BEHAVIOR. THE LEGISLATURE FINDS THAT ESTABLISHING A PROCEDURE TO MINIMIZE DISRUPTIONS IN EDUCATION FOR CHILDREN IN OUT-OF-HOME CARE CAN LEAD TO BETTER LIFELONG OUTCOMES FOR CHILDREN.

2. DEFINITIONS. (A) "SCHOOL OF ORIGIN" SHALL MEAN:

(I) THE PUBLIC SCHOOL THAT THE CHILD ATTENDED OR WAS ENTITLED TO ATTEND WHEN PLACED IN OUT-OF-HOME CARE; OR

(II) THE SCHOOL IN WHICH THE CHILD WAS LAST ENROLLED.

(B) "SCHOOL DISTRICT OF ORIGIN" SHALL MEAN THE SCHOOL DISTRICT WITHIN THE STATE OF NEW YORK IN WHICH THE CHILD WAS ATTENDING A PUBLIC SCHOOL ON A TUITION-FREE BASIS OR WAS ENTITLED TO ATTEND WHEN THE CHILD WAS PLACED IN OUT-OF-HOME CARE.

(C) "DESIGNATED SCHOOL" SHALL MEAN THE SCHOOL THAT:

(I) THE LOCAL SOCIAL SERVICES DISTRICT, THE PARENT OF THE CHILD, AND THE ATTORNEY FOR THE CHILD HAVE AGREED IS IN THE BEST INTERESTS OF THE CHILD TO ATTEND; OR

(II) THE COURT HAS DETERMINED TO BE IN THE BEST INTERESTS OF THE CHILD TO ATTEND.

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

LBD14760-03-9

(D) "SCHOOL DISTRICT OF CURRENT LOCATION" SHALL MEAN THE PUBLIC SCHOOL DISTRICT WITHIN THE STATE OF NEW YORK WHERE THE CHILD IS RESIDING IN OUT-OF-HOME CARE. WHENEVER THE SCHOOL DISTRICT OF CURRENT LOCATION IS DESIGNATED PURSUANT TO SUBDIVISION TWO OF SECTION THIRTY-TWO HUNDRED NINE OF THE EDUCATION LAW, THE CHILD SHALL BE ENTITLED TO ATTEND ANY SCHOOL THAT OTHER STUDENTS WHO LIVE IN THE SAME ATTENDANCE ZONE AS THE CHILD IN OUT-OF-HOME CARE ARE ENTITLED TO ATTEND.

(E) "CHILD IN OUT-OF-HOME CARE", FOR PURPOSES OF AN EDUCATION STABILITY DETERMINATION, SHALL MEAN A CHILD WHO IS ENTITLED TO ATTEND SCHOOL PURSUANT TO SECTION THIRTY-TWO HUNDRED TWO OF THE EDUCATION LAW, A CHILD ELIGIBLE FOR UNIVERSAL PRE-KINDERGARTEN, OR A CHILD ELIGIBLE FOR COMMITTEE ON PRESCHOOL SPECIAL EDUCATION SERVICES WHO:

(I) IS IN THE PROTECTIVE CUSTODY, CARE AND CUSTODY, OR CUSTODY AND GUARDIANSHIP OF THE COMMISSIONER OF THE LOCAL SOCIAL SERVICES DISTRICT PURSUANT TO SECTION THREE HUNDRED FIFTY-EIGHT-A, THREE HUNDRED EIGHTY-FOUR, OR THREE HUNDRED EIGHTY-FOUR-A OF THIS CHAPTER, OR PURSUANT TO ARTICLE SEVEN, TEN OR TEN-A OF THE FAMILY COURT ACT; OR

(II) HAS BEEN DIRECTLY PLACED WITH A RELATIVE PURSUANT TO ARTICLE TEN OR TEN-A OF THE FAMILY COURT ACT; AND

(III) IS NOT A CHILD IN OUT-OF-HOME CARE WHO IS IN NON-SECURE OR SECURE DETENTION FACILITIES.

(F) "CHILD AWAITING FOSTER CARE PLACEMENT" SHALL MEAN A CHILD IN OUT-OF-HOME CARE THROUGH THE END OF THE SCHOOL YEAR IN WHICH THE CHILD ENTERED OUT-OF-HOME CARE.

3. UPON REMOVAL OF A CHILD FROM HOME AND PLACEMENT IN OUT-OF-HOME CARE BUT PRIOR TO A DETERMINATION OF THE BEST INTERESTS OF THE CHILD REGARDING SCHOOL PLACEMENT, THE CHILD SHALL REMAIN IN HIS OR HER SCHOOL OF ORIGIN UNLESS CONTINUING AT THE SCHOOL OF ORIGIN WOULD CREATE AN IMMINENT RISK TO THE LIFE OR HEALTH OF THE CHILD. THE CHILD SHALL REMAIN IN HIS OR HER SCHOOL OF ORIGIN UNLESS THE LOCAL SOCIAL SERVICES DISTRICT, THE BIRTH OR ADOPTIVE PARENT OF THE CHILD, AND THE ATTORNEY FOR THE CHILD, AFTER CONSULTATION WITH THE CHILD, CONSENT TO A CHANGE IN SCHOOL PLACEMENT, OR THE COURT MAKES A DETERMINATION THAT IT WOULD BE IN THE BEST INTERESTS OF THE CHILD TO CHANGE SCHOOLS.

4. WITHIN ONE BUSINESS DAY OF REMOVING A CHILD FROM HOME, MOVING THE CHILD TO A NEW OUT-OF-HOME CARE PLACEMENT, OBTAINING CONSENT FROM THE PARENT OF THE CHILD AND ATTORNEY FOR THE CHILD TO CHANGE THE CURRENT SCHOOL PLACEMENT OF A CHILD, OR RECEIPT OF A COURT ORDER REGARDING THE SCHOOL PLACEMENT OF A CHILD, THE LOCAL SOCIAL SERVICES DISTRICT SHALL COMPLETE A DESIGNATION FORM ON BEHALF OF THE CHILD AND FAX OR EMAIL IT TO THE SCHOOL DISTRICT IN WHICH THE CHILD IS ENROLLED AND, IF APPLICABLE, THE NEWLY DESIGNATED DISTRICT WHERE ENROLLMENT IS SOUGHT. SUCH FORM SHALL BE COMPLETED IN ACCORDANCE WITH PARAGRAPH D OF SUBDIVISION TWO OF SECTION THIRTY-TWO HUNDRED NINE OF THE EDUCATION LAW.

5. (A) IF THE COURT DECIDES OR THE PARTIES AGREE THAT IT IS IN THE BEST INTERESTS OF THE CHILD TO ENROLL IN THE SCHOOL DISTRICT OF CURRENT LOCATION, SUCH DISTRICT SHALL IMMEDIATELY, AND NO LATER THAN ONE BUSINESS DAY:

(I) ADMIT THE CHILD, EVEN IF THE CHILD IS UNABLE TO PRODUCE RECORDS NORMALLY REQUIRED FOR ENROLLMENT, SUCH AS PREVIOUS ACADEMIC RECORDS, MEDICAL RECORDS, PROOF OF RESIDENCY OR OTHER DOCUMENTATION;

(II) TREAT THE CHILD AS A RESIDENT FOR ALL PURPOSES;

(III) MAKE A WRITTEN REQUEST TO THE SCHOOL DISTRICT WHERE THE CHILD'S RECORDS ARE LOCATED FOR A COPY OF SUCH RECORDS; AND

(IV) WHERE APPLICABLE, ASSIST THE LOCAL SOCIAL SERVICES DISTRICT IN COMPLETING A DESIGNATION FORM.

(B) WITHIN FIVE DAYS OF RECEIPT OF A REQUEST FOR RECORDS PURSUANT TO SUBPARAGRAPH (III) OF PARAGRAPH (A) OF THIS SUBDIVISION, THE SCHOOL DISTRICT WHERE THE CHILD WAS LAST ENROLLED SHALL FORWARD, IN A MANNER CONSISTENT WITH STATE AND FEDERAL LAW, A COMPLETE COPY OF THE RECORDS FOR THE CHILD INCLUDING, BUT NOT LIMITED TO, PROOF OF AGE, ACADEMIC RECORDS, EVALUATIONS, AND IMMUNIZATION RECORDS.

6. (A) WITHIN ONE BUSINESS DAY OF EACH SUBSEQUENT CHANGE IN OUT-OF-HOME CARE PLACEMENT, THE LOCAL SOCIAL SERVICES DISTRICT SHALL CONSULT WITH THE BIRTH OR ADOPTIVE PARENT OF THE CHILD AND THE ATTORNEY FOR THE CHILD AND ATTEMPT TO REACH CONSENSUS ON WHETHER THE CHILD SHOULD REMAIN IN THE PREVIOUSLY DESIGNATED SCHOOL OR TRANSFER TO A SCHOOL IN THE DISTRICT OF CURRENT LOCATION. THE CHILD SHALL REMAIN IN THE PREVIOUSLY DESIGNATED SCHOOL UNLESS THE PARTIES REACH CONSENSUS OTHERWISE. IF THE PARTIES REACH CONSENSUS TO TRANSFER THE CHILD TO A SCHOOL IN THE DISTRICT OF THE CURRENT LOCATION, THE LOCAL SOCIAL SERVICES DISTRICT MUST COMPLETE A REVISED DESIGNATION FORM ON BEHALF OF THE CHILD AND FAX OR EMAIL IT TO THE DISTRICT IN WHICH THE CHILD IS CURRENTLY ENROLLED AND, IF APPLICABLE, THE NEWLY DESIGNATED DISTRICT WHERE ENROLLMENT IS SOUGHT.

(B) FOR ANY OTHER SCHOOL TRANSFER THAT OCCURS FOR REASONS OTHER THAN A CHANGE IN OUT-OF-HOME CARE PLACEMENT, THE LOCAL SOCIAL SERVICES DISTRICT SHALL PROVIDE NOTICE TO ALL PARTIES NO LESS THAN FIVE BUSINESS DAYS BEFORE ANY SCHOOL TRANSFER TAKES PLACE. ANY PARTY THAT DISPUTES THE CHANGE OF SCHOOL PLACEMENT MAY MAKE AN APPLICATION TO THE FAMILY COURT WITH JURISDICTION OVER THE CHILD FOR DETERMINATION WHETHER THE TRANSFER IS IN THE BEST INTERESTS OF THE CHILD. IF NO PARTY MAKES AN APPLICATION TO THE COURT WITHIN FIVE BUSINESS DAYS, THE PROPOSED TRANSFER MAY TAKE PLACE.

7. (A) IF THERE IS A DISPUTE AMONG ANY OF THE PARTIES TO A PROCEEDING IN FAMILY COURT REGARDING, BUT NOT LIMITED TO, SCHOOL SELECTION, ENROLLMENT, OR TRANSPORTATION FOR A CHILD IN OUT-OF-HOME CARE, THE AGGRIEVED PARTY MAY MAKE AN APPLICATION TO THE FAMILY COURT. THE FAMILY COURT SHALL SCHEDULE A HEARING WITHIN FIFTEEN DAYS, SHALL MAKE A DETERMINATION ON THE APPLICATION, AND SHALL ISSUE AN APPROPRIATE ORDER TO IMPLEMENT ITS DECISION. THE ORDER SHALL ALSO PROVIDE THAT THE PARTIES MAY MAKE SUBSEQUENT CHANGES TO THE SCHOOL PLACEMENT OF THE CHILD PURSUANT TO SUBDIVISION SIX OF THIS SECTION.

(B) PENDING AN APPLICATION TO THE COURT TO RESOLVE A DISPUTE AMONG THE PARTIES TO THE FAMILY COURT PROCEEDING, THE CHILD SHALL REMAIN IN THE SCHOOL THE CHILD IS CURRENTLY ATTENDING AND RECEIVE TRANSPORTATION TO THE SCHOOL UNTIL AN ORDER OF THE COURT FINALLY DETERMINING THE DISPUTE IS MADE.

(C) IF THERE IS A DISPUTE AMONG A SCHOOL DISTRICT AND ANY PARTY INVOLVED IN A FAMILY COURT PROCEEDING REGARDING, BUT NOT LIMITED TO, SCHOOL SELECTION, ENROLLMENT, OR TRANSPORTATION FOR A CHILD IN OUT-OF-HOME CARE, THE AGGRIEVED PARTY SHALL FOLLOW THE DISPUTE RESOLUTION PROCESS OUTLINED IN PARAGRAPH A OF SUBDIVISION EIGHT OF SECTION THIRTY-TWO HUNDRED NINE OF THE EDUCATION LAW.

(D) PENDING THE RESOLUTION OF SUCH DISPUTE, THE DESIGNATED SCHOOL DISTRICT SHALL:

(I) IMMEDIATELY ENROLL THE CHILD IN THE SCHOOL WHERE ENROLLMENT IS SOUGHT OR CONTINUE ENROLLMENT OF THE CHILD IN THE SCHOOL WHERE ENROLLMENT IS SOUGHT;

(II) PROVIDE TRANSPORTATION, IF REQUESTED AND IF THE CHILD IS AWAITING FOSTER CARE PLACEMENT;

(III) ASSIST THE PARTIES WITH ANY APPEAL TO THE DEPARTMENT PURSUANT TO THE REGULATIONS OF THE COMMISSIONER OF THE DEPARTMENT OF EDUCATION; AND

(IV) CONTINUE ENROLLMENT AND TRANSPORTATION, IF REQUESTED, FOR THE DURATION OF THE DISPUTE RESOLUTION PROCESS.

(E) PENDING THE RESOLUTION OF SUCH DISPUTE, THE LOCAL SOCIAL SERVICES DISTRICT SHALL PROVIDE TRANSPORTATION, IF REQUESTED, FOR A CHILD IN OUT-OF-HOME CARE WHO IS NOT AWAITING FOSTER CARE PLACEMENT.

8. (A) WHEN MAKING A DETERMINATION ABOUT THE SCHOOL PLACEMENT OF THE CHILD, IT SHALL BE PRESUMED THAT IT IS IN THE BEST INTERESTS OF THE CHILD TO REMAIN IN HIS OR HER SCHOOL OF ORIGIN UNLESS FACTS ARE PRESENTED TO THE CONTRARY. FACTORS THAT MAY BE CONSIDERED IN MAKING A BEST INTERESTS DETERMINATION INCLUDE:

(I) THE SAFETY OF THE CHILD;

(II) THE DISTANCE OF THE OUT-OF-HOME CARE PLACEMENT FROM THE SCHOOL OF ORIGIN;

(III) THE RECEIPT OF OR PARTICIPATION IN SPECIALIZED SUPPORTS AND SERVICES AT THE SCHOOL OF ORIGIN BY THE CHILD; AND

(IV) THE PREFERENCES OF THE CHILD AND THE BIRTH OR ADOPTIVE PARENT OF THE CHILD.

(B) THE COST OF TRANSPORTING THE CHILD TO AND FROM HIS OR HER SCHOOL OF ORIGIN SHALL NOT BE A FACTOR IN THE DETERMINATION.

9. AT FINAL DISCHARGE FROM OUT-OF-HOME CARE, THE CHILD SHALL BE ENTITLED TO ATTEND THE DESIGNATED SCHOOL WITHOUT PAYMENT OF TUITION:

(A) THROUGH THE REMAINDER OF THE SCHOOL YEAR; AND

(B) FOR ONE ADDITIONAL YEAR IF THAT YEAR CONSTITUTES THE TERMINAL YEAR IN THE SCHOOL BUILDING FOR THE CHILD.

10. (A) UPON PLACEMENT IN OUT-OF-HOME CARE OR A CHANGE IN OUT-OF-HOME CARE PLACEMENT, THE LOCAL SOCIAL SERVICES DISTRICT SHALL IMMEDIATELY PROVIDE EMERGENCY TRANSPORTATION TO AND FROM THE OUT-OF-HOME CARE PLACEMENT AND THE DESIGNATED SCHOOL WHERE THE CHILD IS ENTITLED TO TRANSPORTATION PURSUANT TO APPLICABLE PROVISIONS OF THIS SUBDIVISION. EMERGENCY TRANSPORTATION SHALL CONTINUE UNTIL TRANSPORTATION IS PROVIDED PURSUANT TO APPLICABLE PROVISIONS OF THIS SUBDIVISION.

(B) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, WHERE THE SCHOOL DISTRICT OF CURRENT LOCATION IS DESIGNATED FOR A CHILD IN OUT-OF-HOME CARE, THE DESIGNATED SCHOOL DISTRICT SHALL PROVIDE TRANSPORTATION TO SUCH CHILD ON THE SAME BASIS AS A RESIDENT STUDENT.

(C) A CHILD AWAITING FOSTER CARE PLACEMENT WHO REQUIRES TRANSPORTATION IN ORDER TO ATTEND THE SCHOOL OF ORIGIN SHALL BE ENTITLED TO RECEIVE SUCH TRANSPORTATION PURSUANT TO PARAGRAPH (B) OF THIS SUBDIVISION. THE DISTRICT IN WHICH THE SCHOOL OF ORIGIN IS LOCATED SHALL PROVIDE TRANSPORTATION TO AND FROM THE OUT-OF-HOME CARE PLACEMENT OF THE CHILD AND THE SCHOOL THE CHILD LEGALLY ATTENDS. SUCH TRANSPORTATION SHALL NOT BE IN EXCESS OF FIFTY MILES EACH WAY EXCEPT WHERE THE COMMISSIONER OF EDUCATION CERTIFIES THAT TRANSPORTATION IN EXCESS OF FIFTY MILES IS IN THE BEST INTERESTS OF THE CHILD. ANY COST INCURRED FOR SUCH TRANSPORTATION THAT IS ALLOWABLE PURSUANT TO THE APPLICABLE PROVISIONS OF PARTS TWO AND THREE OF ARTICLE SEVENTY-THREE OF THE EDUCATION LAW OR THEREIN, SHALL BE AIDABLE PURSUANT TO SUBDIVISION SEVEN OF SECTION THIRTY-SIX HUNDRED TWO OF THE EDUCATION LAW, PROVIDED THAT THE APPROVED TRANSPORTATION EXPENSE SHALL NOT EXCEED AN AMOUNT DETERMINED BY THE COMMISSIONER OF THE STATE DEPARTMENT OF EDUCATION TO BE THE TOTAL COST FOR PROVIDING THE MOST COST-EFFECTIVE MODE OF SUCH TRANSPORTATION IN A MANNER CONSISTENT WITH THE REGULATIONS OF THE COMMISSIONER OF EDUCATION.

(D) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ANY CHILD IN OUT-OF-HOME CARE WHO IS NOT AWAITING FOSTER CARE PLACEMENT AND WHO

REQUIRES TRANSPORTATION IN ORDER TO ATTEND THE SCHOOL OF ORIGIN SHALL BE PROVIDED WITH TRANSPORTATION PURSUANT TO PARAGRAPH (B) OF THIS SUBDIVISION UNTIL THE END OF THE SCHOOL YEAR IN WHICH HE OR SHE IS DISCHARGED FROM CARE. THE LOCAL SOCIAL SERVICES DISTRICT SHALL PROVIDE TRANSPORTATION TO AND FROM THE OUT-OF-HOME CARE PLACEMENT AND THE SCHOOL THE CHILD LEGALLY ATTENDS. SUCH TRANSPORTATION SHALL NOT BE IN EXCESS OF FIFTY MILES EACH WAY EXCEPT WHERE THE COURT DETERMINES THAT TRANSPORTATION IN EXCESS OF FIFTY MILES IS IN THE BEST INTERESTS OF THE CHILD. A LOCAL SOCIAL SERVICES DISTRICT SHALL BE AUTHORIZED TO CONTRACT WITH A BOARD OF EDUCATION OR A BOARD OF COOPERATIVE EDUCATIONAL SERVICES FOR THE PROVISION OF SUCH TRANSPORTATION.

(E) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ANY CHILD WHO REQUIRES TRANSPORTATION TO CONTINUE ATTENDANCE IN THE DESIGNATED SCHOOL THROUGH THE REMAINDER OF THE SCHOOL YEAR IN WHICH THE CHILD IS FINALLY DISCHARGED FROM OUT-OF-HOME CARE PURSUANT TO SUBDIVISION NINE OF THIS SECTION SHALL BE ENTITLED TO TRANSPORTATION PURSUANT TO APPLICABLE PROVISIONS OF THIS SUBDIVISION.

(F) WHERE A CHILD WHO IS IN OUT-OF-HOME CARE ATTENDS A SUMMER EDUCATIONAL PROGRAM IN THE DESIGNATED SCHOOL DISTRICT THAT IS NEEDED FOR SUCH CHILD TO ADVANCE TO THE NEXT GRADE OR TO COMPLETE A HIGH SCHOOL DIPLOMA WITH HIS OR HER PEERS OF THE SAME AGE, AND THE OUT-OF-HOME CARE PLACEMENT IS OUTSIDE OF SUCH DESIGNATED SCHOOL DISTRICT, SUCH CHILD SHALL BE ENTITLED TO TRANSPORTATION PURSUANT TO APPLICABLE PROVISIONS OF THIS SUBDIVISION.

(G) WHERE A CHILD WHO IS IN OUT-OF-HOME CARE ATTENDS A SUMMER EDUCATIONAL PROGRAM OUTSIDE OF THE DESIGNATED SCHOOL DISTRICT THAT IS NEEDED FOR SUCH CHILD TO ADVANCE TO THE NEXT GRADE OR TO COMPLETE A HIGH SCHOOL DIPLOMA WITH HIS OR HER PEERS OF THE SAME AGE, AND THE OUT-OF-HOME CARE PLACEMENT IS LOCATED OUTSIDE OF THE SCHOOL DISTRICT WHERE THE SUMMER EDUCATIONAL PROGRAM IS LOCATED, SUCH CHILD SHALL BE ENTITLED TO TRANSPORTATION PURSUANT TO APPLICABLE PROVISIONS OF THIS SUBDIVISION.

11. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, WHERE THE DESIGNATED SCHOOL DISTRICT IS DIFFERENT FROM THE SCHOOL DISTRICT OF ORIGIN, THE DESIGNATED SCHOOL DISTRICT IS ENTITLED TO REIMBURSEMENT FOR INSTRUCTIONAL SERVICES PURSUANT TO SUBDIVISION THREE OF SECTION THIRTY-TWO HUNDRED NINE OF THE EDUCATION LAW.

S 2. Paragraph (e) of subdivision 3 of section 358-a of the social services law is amended by adding a new subparagraph (iii) to read as follows:

(III) A DETERMINATION PURSUANT TO SUBDIVISION EIGHT OF SECTION THREE HUNDRED SEVENTY-THREE-B OF THE SOCIAL SERVICES LAW AS TO WHETHER IT IS IN THE BEST INTERESTS OF THE CHILD TO REMAIN IN HIS OR HER SCHOOL OF ORIGIN, IF THE PARTIES HAVE NOT OTHERWISE AGREED TO THE APPROPRIATE SCHOOL PLACEMENT OF THE CHILD.

S 3. The family court act is amended by adding a new section 756-b to read as follows:

S 756-B. EDUCATIONAL STABILITY. WHEN A CHILD HAS BEEN PLACED IN THE PROTECTIVE CUSTODY, CARE AND CUSTODY OR CUSTODY AND GUARDIANSHIP OF THE COMMISSIONER OF SOCIAL SERVICES PURSUANT TO SECTION THREE HUNDRED FIFTY-EIGHT-A, THREE HUNDRED EIGHTY-FOUR OR THREE HUNDRED EIGHTY-FOUR-A OF THE SOCIAL SERVICES LAW, OR PURSUANT TO ARTICLE SEVEN, TEN OR TEN-A OF THIS CHAPTER, OR HAS BEEN DIRECTLY PLACED PURSUANT TO ARTICLE TEN OR TEN-A OF THIS CHAPTER, THE COURT MAY, AT THE TIME OF PLACEMENT OR AT ANY TIME THROUGHOUT THE DURATION OF THE PLACEMENT, ISSUE AN ORDER PURSUANT TO SECTION THREE HUNDRED SEVENTY-THREE-B OF THE SOCIAL SERVICES LAW

REGARDING WHETHER IT IS IN THE BEST INTERESTS OF THE CHILD TO REMAIN IN HIS OR HER SCHOOL OF ORIGIN.

S 4. The family court act is amended by adding a new section 1055-c to read as follows:

S 1055-C. EDUCATIONAL STABILITY. WHEN A CHILD HAS BEEN PLACED IN THE PROTECTIVE CUSTODY, CARE AND CUSTODY OR CUSTODY AND GUARDIANSHIP OF THE LOCAL COMMISSIONER OF SOCIAL SERVICES PURSUANT TO SECTION THREE HUNDRED FIFTY-EIGHT-A, THREE HUNDRED EIGHTY-FOUR OR THREE HUNDRED EIGHTY-FOUR-A OF THE SOCIAL SERVICES LAW, OR PURSUANT TO THIS ARTICLE OR ARTICLE SEVEN OR TEN-A OF THIS CHAPTER, OR HAS BEEN DIRECTLY PLACED PURSUANT TO THIS ARTICLE OR ARTICLE TEN-A OF THIS CHAPTER, THE COURT MAY, AT THE TIME OF PLACEMENT OR AT ANY TIME THROUGHOUT THE DURATION OF THE PLACEMENT, ISSUE AN ORDER PURSUANT TO SECTION THREE HUNDRED SEVENTY-THREE-B OF THE SOCIAL SERVICES LAW REGARDING WHETHER IT IS IN THE BEST INTERESTS OF THE CHILD TO REMAIN IN HIS OR HER SCHOOL OF ORIGIN.

S 5. Paragraphs 2 and 5 of subdivision (c) of section 1089 of the family court act, as added by section 27 of part A of chapter 3 of the laws of 2005, subparagraph (viii) of paragraph 5 as amended by section 10 of part B of chapter 327 of the laws of 2007, are amended to read as follows:

(2) the health, well-being, and status of the child since the last hearing including:

(i) a description of the child's health and well-being;

(ii) information regarding the child's current placement;

(iii) an update on the educational and other progress the child has made since the last hearing including a description of the steps that have been taken by the local social services district or agency to ENSURE EDUCATIONAL STABILITY FOR THE CHILD AND TO enable prompt delivery of appropriate educational and vocational services to the child, including, but not [be] limited to:

(A) where the child is subject to article sixty-five of the education law or elects to participate in an educational program leading to a high school diploma, the steps that the local social services district or agency has taken to promptly enable the child to be enrolled or to continue enrollment in an appropriate school or educational program leading to a high school diploma;

(B) where the child is eligible to be enrolled in a pre-kindergarten program pursuant to section thirty-six hundred two-e of the education law, the steps that the local social services district or agency has taken to promptly enable the child to be enrolled in an appropriate pre-kindergarten program, if available;

(C) where the child is under three years of age and is involved in an indicated case of child abuse or neglect, or where the local social services district suspects that the child may have a disability as defined in subdivision five of section twenty-five hundred forty-one of the public health law or if the child has been found eligible to receive early intervention or special educational services prior to or during the foster care placement, in accordance with title two-A of article twenty-five of the public health law or article eighty-nine of the education law, the steps that the local social services district or agency has taken to make any necessary referrals of the child for early intervention, pre-school special educational or special educational evaluations or services, as appropriate, and any available information regarding any evaluations and services which are being provided or are scheduled to be provided in accordance with applicable law; and

(D) where the child is at least sixteen and not subject to article sixty-five of the education law and elects not to participate in an educational program leading to a high school diploma, the steps that the local social services district has taken to assist the child to become gainfully employed or enrolled in a vocational program;

(iv) a description of the visitation plan or plans describing the persons with whom the child visits, including any siblings, and the frequency, duration and quality of the visits;

(v) where a child has attained the age of fourteen, a description of the services and assistance that are being provided to enable the child to learn independent living skills; and

(vi) a description of any other services being provided to the child;

(5) the recommended permanency plan including:

(i) a recommendation regarding whether the child's current permanency goal should be continued or modified, the reasons therefor, and the anticipated date for meeting the goal;

(ii) a recommendation regarding whether the child's placement should be extended and the reasons for the recommendation;

(iii) any proposed changes in the child's current placement, trial discharge or discharge that may occur before the next permanency hearing;

(iv) a description of the steps that will be taken by the local social services district or agency to PROVIDE FOR EDUCATIONAL STABILITY FOR THE CHILD AND TO continue to enable prompt delivery of appropriate educational and vocational services to the child in his or her current placement and during any potential change in the child's foster care placement, during any trial discharge, and after discharge of the child in accordance with the plans for the child's placement until the next permanency hearing;

(v) whether any modification to the visitation plan or plans is recommended and the reasons therefor;

(vi) where a child has attained the age of fourteen or will attain the age of fourteen before the next permanency hearing, a description of the services and assistance that will be provided to enable the child to learn independent living skills;

(vii) where a child has been placed outside this state, whether the out-of-state placement continues to be appropriate, necessary and in the best interests of the child;

(viii) where return home of the child is not likely, the efforts that will be made to evaluate or plan for another permanent plan, including consideration of appropriate in-state and out-of-state placements; and

(ix) in the case of a child who has been freed for adoption:

(A) a description of services and assistance that will be provided to the child and the prospective adoptive parent to expedite the adoption of the child;

(B) information regarding the child's eligibility for adoption subsidy pursuant to title nine of article six of the social services law; and

(C) if the child is over age fourteen and has voluntarily withheld his or her consent to an adoption, the facts and circumstances regarding the child's decision to withhold consent and the reasons therefor.

S 6. Subparagraph (v) of paragraph 2 of subdivision (d) of section 1089 of the family court act, as added by section 27 of part A of chapter 3 of the laws of 2005, is amended to read as follows:

(v) the steps that must be taken by the local social services official or agency to implement the educational and vocational program components of the permanency hearing report submitted pursuant to subdivision (c)

of this section, and any modifications that should be made to such plan, INCLUDING STEPS TO ENSURE EDUCATIONAL STABILITY FOR THE CHILD AND, WHERE APPROPRIATE, AN ORDER PURSUANT TO SECTION THREE HUNDRED SEVENTY-THREE-B OF THE SOCIAL SERVICES LAW REGARDING WHETHER IT IS IN THE BEST INTERESTS OF THE CHILD TO REMAIN IN HIS OR HER SCHOOL OF ORIGIN;

S 7. The section heading of section 3209 of the education law, as amended by chapter 569 of the laws of 1994, is amended to read as follows:

Education of [homeless] children WHO ARE HOMELESS AND WHO ARE IN OUT-OF-HOME CARE.

S 8. Subdivision 1 of section 3209 of the education law, as added by chapter 569 of the laws of 1994, paragraphs a and a-1 as amended by chapter 101 of the laws of 2003, is amended to read as follows:

1. Definitions.

a. Homeless child. For the purposes of this article, the term "homeless child" OR "CHILD WHO IS HOMELESS" shall mean:

(1) a child or youth who lacks a fixed, regular, and adequate nighttime residence, including a child or youth who is:

(i) sharing the housing of other persons due to a loss of housing, economic hardship or a similar reason;

(ii) living in motels, hotels, trailer parks or camping grounds due to the lack of alternative adequate accommodations;

(iii) abandoned in hospitals;

(iv) awaiting foster care placement; or

(v) a migratory child, as defined in subsection two of section thirteen hundred nine of the Elementary and Secondary Education Act of 1965, as amended, who qualifies as homeless under any of the provisions of clauses (i) through (iv) of this subparagraph or subparagraph two of this paragraph; or

(2) a child or youth who has a primary nighttime location that is:

(i) a supervised publicly or privately operated shelter designed to provide temporary living accommodations including, but not limited to, shelters operated or approved by the state or local department of social services, and residential programs for runaway and homeless youth established pursuant to article nineteen-H of the executive law; or

(ii) a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings, including a child or youth who is living in a car, park, public space, abandoned building, substandard housing, bus or train stations or similar setting.

(3) THE TERM "CHILD AWAITING FOSTER CARE PLACEMENT" SHALL INCLUDE A CHILD IN OUT-OF-HOME CARE AS DEFINED IN PARAGRAPH B OF THIS SUBDIVISION THROUGH THE END OF THE SCHOOL YEAR IN WHICH THE CHILD ENTERED OUT-OF-HOME CARE.

[a-1.] (4) Exception. For the purposes of this article the term "homeless child" OR A "CHILD WHO IS HOMELESS" shall not include a child [in a foster care placement or] receiving educational services pursuant to subdivision [four,] five, six, six-a or seven of section thirty-two hundred two of this article or pursuant to article eighty-one, eighty-five, eighty-seven or eighty-eight of this chapter.

b. CHILD IN OUT-OF-HOME CARE. FOR PURPOSES OF THIS ARTICLE, A "CHILD IN OUT-OF-HOME CARE" SHALL MEAN A CHILD WHO:

(1) IS IN THE PROTECTIVE CUSTODY, CARE AND CUSTODY, OR CUSTODY AND GUARDIANSHIP OF THE COMMISSIONER OF THE LOCAL SOCIAL SERVICES DISTRICT PURSUANT TO SECTION THREE HUNDRED FIFTY-EIGHT-A, THREE HUNDRED EIGHTY-FOUR, OR THREE HUNDRED EIGHTY-FOUR-A OF THE SOCIAL SERVICES LAW, OR PURSUANT TO ARTICLE SEVEN, TEN OR TEN-A OF THE FAMILY COURT ACT; OR

(2) HAS BEEN DIRECTLY PLACED WITH A RELATIVE PURSUANT TO ARTICLE TEN OR TEN-A OF THE FAMILY COURT ACT; AND

CHILD IN OUT-OF-HOME CARE DOES NOT INCLUDE A CHILD IN NON-SECURE OR SECURE DETENTION FACILITIES.

C. Designator. The term "designator" shall mean:

(1) the parent or the person in parental relation to a homeless child; or

(2) the homeless child, if [no parent or person in parental relation is available] SUCH HOMELESS CHILD IS AN UNACCOMPANIED YOUTH; or

(3) the director of a residential program for runaway and homeless youth established pursuant to article nineteen-H of the executive law, in consultation with the homeless child, where such homeless child is living in such program[.]; OR

(4) THE LOCAL SOCIAL SERVICES DISTRICT IN ACCORDANCE WITH SUBDIVISIONS FOUR AND EIGHT OF SECTION THREE HUNDRED SEVENTY-THREE-B OF THE SOCIAL SERVICES LAW, WHERE THE CHILD IS IN OUT-OF-HOME CARE.

[c] D. School district of origin. The term "school district of origin" shall mean the school district within the state of New York in which the [homeless] child WHO IS HOMELESS OR IN OUT-OF-HOME CARE was attending a public school on a tuition-free basis or was entitled to attend when circumstances arose which caused such child to become homeless[, which is different from the school district of current location] OR WHEN THE CHILD WAS PLACED IN OUT-OF-HOME CARE. Whenever the school district of origin is designated pursuant to subdivision two of this section, the child shall be entitled to return to the school [building where previously enrolled] OF ORIGIN, EXCEPT WHERE CONTINUING THE CHILD'S EDUCATION IN THE SCHOOL OF ORIGIN IS DETERMINED BY SUCH SCHOOL DISTRICT NOT TO BE IN THE BEST INTERESTS OF THE CHILD. NOTWITHSTANDING THE FOREGOING, THE BEST INTERESTS OF A CHILD IN OUT-OF-HOME CARE SHALL BE DETERMINED SOLELY THROUGH AN AGREEMENT BETWEEN THE LOCAL SOCIAL SERVICES DISTRICT, THE BIRTH OR ADOPTIVE PARENT OF THE CHILD AND THE ATTORNEY FOR THE CHILD, AFTER CONSULTATION WITH THE CHILD, OR BY THE FAMILY COURT IN ACCORDANCE WITH SUBDIVISIONS SEVEN AND EIGHT OF SECTION THREE HUNDRED SEVENTY-THREE-B OF THE SOCIAL SERVICES LAW.

[d] E. School district of current location. The term "school district of current location" shall mean the public school district within the state of New York in which the hotel, motel, shelter or other temporary housing arrangement of a homeless child, or the residential program for runaway and homeless youth, is located, [which is different from the school district of origin] OR WHERE THE CHILD IS RESIDING IN OUT-OF-HOME CARE. Whenever the school district of current location is designated pursuant to subdivision two of this section, the child shall be entitled to attend [the school that is zoned for his or her temporary location or] any school that [nonhomeless] OTHER students who live in the same attendance zone [in which] AS the [homeless] child [or youth is temporarily residing] WHO IS HOMELESS OR IN OUT-OF-HOME CARE are entitled to attend.

[e] F. Regional placement plan. The term "regional placement plan" shall mean a comprehensive regional approach to the provision of educational placements for homeless children which has been approved by the commissioner.

G. SCHOOL OF ORIGIN. THE TERM "SCHOOL OF ORIGIN" SHALL MEAN:

(I) THE PUBLIC SCHOOL THAT THE CHILD ATTENDED WHEN PERMANENTLY HOUSED AND CIRCUMSTANCES AROSE WHICH CAUSED THE CHILD TO BECOME HOMELESS; OR

(II) THE PUBLIC SCHOOL THAT THE CHILD ATTENDED OR WAS ENTITLED TO ATTEND WHEN PLACED IN OUT-OF-HOME CARE; OR

(III) THE SCHOOL IN WHICH THE CHILD WAS LAST ENROLLED.

H. TEMPORARY HOUSING ARRANGEMENT OR LOCATION. THE TERMS "TEMPORARY HOUSING ARRANGEMENT" AND "TEMPORARY HOUSING LOCATION" SHALL MEAN ANY OF THE NIGHTTIME RESIDENCES OR LOCATIONS DESCRIBED IN PARAGRAPH A OF THIS SUBDIVISION OR THE LOCATION OF ANY OUT-OF-HOME CARE PLACEMENT DESCRIBED IN PARAGRAPH B OF THIS SUBDIVISION.

I. THE TERM "HOMELESS CHILD" AND "CHILD IN OUT-OF-HOME CARE" SHALL INCLUDE A CHILD ELIGIBLE TO RECEIVE UNIVERSAL PRE-KINDERGARTEN SERVICES OR A PRESCHOOL CHILD WITH A DISABILITY PURSUANT TO SECTION FORTY-FOUR HUNDRED TEN OF THIS CHAPTER. SERVICES FOR A CHILD WHO IS HOMELESS OR IN OUT-OF-HOME CARE, AND WHO IS A PRESCHOOL CHILD WITH A DISABILITY SHALL BE PROVIDED PURSUANT TO SECTION FORTY-FOUR HUNDRED TEN-A OF THIS CHAPTER.

S 9. Paragraph a of subdivision 1 of section 3209 of the education law, as added by chapter 569 of the laws of 1994, is amended to read as follows:

a. Homeless child. For the purposes of this article, the term "homeless child" OR "CHILD WHO IS HOMELESS" shall mean:

(1) a child who lacks a fixed, regular, and adequate nighttime residence; or

(2) a child who has a primary nighttime location that is:

(i) a supervised publicly or privately operated shelter designed to provide temporary living accommodations including, but not limited to, shelters operated or approved by the state or local department of social services, and residential programs for runaway and homeless youth established pursuant to article nineteen-H of the executive law; or

(ii) a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

(3) THE TERM "CHILD AWAITING FOSTER CARE PLACEMENT" SHALL INCLUDE A CHILD IN OUT-OF-HOME CARE AS DEFINED IN PARAGRAPH B OF THIS SUBDIVISION THROUGH THE END OF THE SCHOOL YEAR IN WHICH THE CHILD ENTERED OUT-OF-HOME CARE.

(4) the term "homeless child" OR "CHILD WHO IS HOMELESS" shall not include a child [in foster care or] receiving educational services pursuant to subdivision [four,] five, six, six-a or seven of section thirty-two hundred two of this article or pursuant to article eighty-one, eighty-five, eighty-seven or eighty-eight of this chapter.

S 10. Subdivision 2 of section 3209 of the education law, as amended by chapter 569 of the laws of 1994, is amended to read as follows:

2. Choice of SCHOOL AND district OF ATTENDANCE.

a. The designator shall have the right to designate THE SCHOOL OF ORIGIN OR THE SCHOOL SERVING THE ATTENDANCE ZONE IN WHICH THE TEMPORARY HOUSING ARRANGEMENT IS LOCATED AND one of the following SCHOOL DISTRICTS as the school AND SCHOOL district [within which] WHERE the [homeless] child WHO IS HOMELESS OR IN OUT-OF-HOME CARE shall be entitled to attend upon instruction:

(1) the school district of current location;

(2) the school district of origin; or

(3) a school district participating in a regional placement plan.

b. (1) Notwithstanding any other provision of law to the contrary, [where the public school district in which a homeless child is temporarily housed is the same school district the child was attending on a tuition-free basis or was entitled to attend when circumstances arose which caused the child to become homeless, the homeless child shall be entitled to attend the schools of such district without the payment of tuition in accordance with subdivision one of section thirty-two hundred

two of this article. Such child may choose to remain in the public school building they previously attended until the end of the school year and for one additional year if that year constitutes the child's terminal year in such building in lieu of the school serving the attendance zone in which the temporary housing facility is located.] THE CHILD WHO IS HOMELESS OR IN OUT-OF-HOME CARE SHALL BE ENTITLED TO ATTEND THE DESIGNATED SCHOOL IN THE DESIGNATED DISTRICT PURSUANT TO PARAGRAPH A OF THIS SUBDIVISION WITHOUT PAYMENT OF TUITION:

(I) FOR THE DURATION OF HOMELESSNESS OR LENGTH OF TIME IN OUT-OF-HOME CARE,

(II) THROUGH THE REMAINDER OF THE SCHOOL YEAR IN WHICH THE CHILD MOVES INTO PERMANENT HOUSING OR IS FINALLY DISCHARGED FROM OUT-OF-HOME CARE, AND

(III) FOR ONE ADDITIONAL YEAR IF THAT YEAR CONSTITUTES THE TERMINAL YEAR OF THE CHILD IN SUCH SCHOOL BUILDING.

(2) Notwithstanding any other provision of law to the contrary, where the public school or school district a [homeless] child WHO IS HOMELESS OR IN OUT-OF-HOME CARE was attending on a tuition-free basis or was entitled to attend when circumstances arose which caused the child to become homeless OR ENTER OUT-OF-HOME CARE is located outside the state, the [homeless] child WHO IS HOMELESS OR IN OUT-OF-HOME CARE shall be [deemed a resident] ELIGIBLE TO ATTEND THE SCHOOLS of the school district in which the hotel, motel, shelter or other temporary housing arrangement of the child is currently located and shall be entitled to attend the schools of such district without payment of tuition in accordance with subdivision one of section thirty-two hundred two of this article. TO THE EXTENT REQUIRED BY SUBTITLE B OF TITLE VII OF THE MCKINNEY-VENTO ASSISTANCE ACT, SUCH CHILD WHO IS HOMELESS OR IN OUT-OF-HOME CARE SHALL BE AFFORDED THE RIGHT TO DESIGNATE A PUBLIC SCHOOL LOCATED IN A CONTIGUOUS STATE AS THE SCHOOL OF ORIGIN OF THE CHILD OR YOUTH AND THE SCHOOL DISTRICT OF CURRENT LOCATION SHALL ARRANGE FOR THE TRANSPORTATION OF SUCH CHILD TO THE SCHOOL OF ORIGIN IN ACCORDANCE WITH THE PROVISIONS OF SUCH FEDERAL LAW. Such OUT-OF-STATE SCHOOL district [of residence] shall not be considered a school district of origin or a school district of current location for purposes of this section.

c. Notwithstanding the provisions of paragraph a of this subdivision, a [homeless child who has designated the school district of current location as the district of attendance and] CHILD WHO IS HOMELESS OR IN OUT-OF-HOME CARE who has relocated to another temporary housing arrangement outside of such district, or to a different attendance zone or community school district within such district[,]:

(1) shall be entitled to continue the prior designation to enable the student to remain in the same school building, WHICH SHALL BE CONSIDERED THE SCHOOL OF ORIGIN, EXCEPT WHERE CONTINUING THE EDUCATION OF THE CHILD IN THE SCHOOL OF ORIGIN IS NOT IN THE BEST INTEREST OF THE CHILD AS DETERMINED BY THE DESIGNATED SCHOOL DISTRICT FOR A CHILD WHO IS HOMELESS OR PURSUANT TO SECTION THREE HUNDRED SEVENTY-THREE-B OF THE SOCIAL SERVICES LAW FOR A CHILD IN OUT-OF-HOME CARE, OR

(2) MAY DESIGNATE A NEW SCHOOL AND SCHOOL DISTRICT PURSUANT TO PARAGRAPH A OF THIS SUBDIVISION.

ANY DESIGNATION MADE PURSUANT TO THIS SUBPARAGRAPH SHALL REMAIN IN EFFECT PURSUANT TO PARAGRAPH B OF THIS SUBDIVISION until the end of the school year and for one additional year if that year constitutes the child's terminal year in such building.

d. Such designation shall be made on forms specified by the commissioner, and shall include:

(1) the name of the child,
(2) the name of the parent or person in parental relation to the child,
(3) THE NAME OF THE FOSTER PARENT FOR A CHILD IN OUT-OF-HOME CARE, WHERE APPLICABLE,
(4) THE NAME OF A REPRESENTATIVE FROM THE LOCAL SOCIAL SERVICES DISTRICT, WHERE APPLICABLE FOR A CHILD IN OUT-OF-HOME CARE,
(5) the name and location of the temporary housing arrangement,
(6) the name of the school OF ORIGIN AND THE SCHOOL district of origin,
(7) the name of the school district where the child's records are located,
(8) the complete address where the family was located at the time circumstances arose which caused such child to become homeless OR ENTER OUT-OF-HOME CARE,
(9) WHETHER TRANSPORTATION IS REQUESTED, and
(10) any other information required by the commissioner.

All school districts, LOCAL SOCIAL SERVICES DISTRICTS, temporary housing facilities operated or approved by a local social services district, and residential facilities for runaway and homeless youth shall make such forms available. Where the homeless child is located in a temporary housing facility operated or approved by a local social services district, or a residential facility for runaway and homeless youth, the director of the facility or a person designated by the LOCAL social services district, shall, within two business days, assist the designator in completing the designation forms and enrolling the homeless child in the designated school district. WHERE THE CHILD IS IN OUT-OF-HOME CARE, THE LOCAL SOCIAL SERVICES DISTRICT MUST COMPLETE THE DESIGNATION FORM WITHIN ONE BUSINESS DAY OF REMOVAL OF SUCH CHILD FROM HIS OR HER HOME, MOVING THE CHILD TO A NEW FOSTER HOME, OBTAINING CONSENT TO CHANGE THE CURRENT SCHOOL PLACEMENT OF A CHILD, OR RECEIPT OF A COURT ORDER REGARDING THE SCHOOL PLACEMENT OF THE CHILD, AS REQUIRED BY SUBDIVISION D OF SECTION THREE HUNDRED SEVENTY-THREE-B OF THE SOCIAL SERVICES LAW.

e. Upon [receipt of the designation form] SELECTION OF A SCHOOL OR SCHOOL DISTRICT OF ATTENDANCE BY A DESIGNATOR OR IDENTIFICATION OF A STUDENT AS HOMELESS OR IN OUT-OF-HOME CARE BY ITS LOCAL EDUCATIONAL AGENCY LIAISON, the [designated] AFFECTED school district shall immediately AND NO LATER THAN ONE BUSINESS DAY:
(1) admit the [homeless] child WHO IS HOMELESS OR IN OUT-OF-HOME CARE EVEN IF THE CHILD IS UNABLE TO PRODUCE RECORDS NORMALLY REQUIRED FOR ENROLLMENT, SUCH AS PREVIOUS ACADEMIC RECORDS, MEDICAL RECORDS, PROOF OF RESIDENCY OR OTHER DOCUMENTATION;
(2) treat the [homeless] child WHO IS HOMELESS OR IN OUT-OF-HOME CARE as a resident for all purposes;
(3) WHERE APPLICABLE, make a written request to the school district where the child's records are located for a copy of such records; and
(4) [forward the designation form to the commissioner, and the school district of origin where applicable] WHERE APPLICABLE, ASSIST THE CHILD AND HIS OR HER PARENT OR PERSON IN PARENTAL RELATION, OR THE LOCAL SOCIAL SERVICES DISTRICT FOR A CHILD IN OUT-OF-HOME CARE, IN COMPLETING THE DESIGNATION FORM.

f. Within five days of receipt of a request for records pursuant to subparagraph three of paragraph e of this subdivision, the school district shall forward, in a manner consistent with state and federal law, a complete copy of the [homeless child's] records FOR THE CHILD WHO IS HOMELESS OR IN OUT-OF-HOME CARE, including, but not limited to, proof

of age, academic records, evaluations, immunization records, and guardianship papers, if applicable.

G. WHERE THE SCHOOL OF ORIGIN IS A CHARTER SCHOOL, THE SCHOOL DISTRICT DESIGNATED PURSUANT TO SUBDIVISION TWO OF THIS SECTION SHALL BE DEEMED TO BE THE SCHOOL DISTRICT OF RESIDENCE OF SUCH CHILD FOR PURPOSES OF FISCAL AND PROGRAMMATIC RESPONSIBILITY UNDER ARTICLE FIFTY-SIX OF THIS CHAPTER. WHERE A CHILD WHO IS HOMELESS OR IN OUT-OF-HOME CARE BECOMES PERMANENTLY HOUSED BY REASON OF PLACEMENT IN ONE OF THE FOLLOWING RESIDENTIAL SETTINGS, THE SCHOOL DISTRICT OF ORIGIN SHALL BE DEEMED TO BE THE STUDENT'S SCHOOL DISTRICT OF RESIDENCE FOR PURPOSES OF ASSIGNING FISCAL AND/OR PROGRAMMATIC RESPONSIBILITY UNDER ANY RELATED PROVISION OF LAW:

(1) AN INTERMEDIATE CARE FACILITY, INDIVIDUALIZED RESIDENTIAL ALTERNATIVE OR OTHER SCHOOL OR FACILITY SUBJECT TO THE PROVISIONS OF SUBDIVISION FIVE OF SECTION THIRTY-TWO HUNDRED TWO OF THIS ARTICLE; OR

(2) A HOSPITAL OR OTHER INSTITUTION FOR THE CARE, CUSTODY OR TREATMENT SUBJECT TO THE PROVISIONS OF SUBDIVISION SIX OF SECTION THIRTY-TWO HUNDRED TWO OF THIS ARTICLE; OR

(3) A FACILITY UNDER THE JURISDICTION OF THE OFFICE OF CHILDREN AND FAMILY SERVICES/DIVISION FOR YOUTH SUBJECT TO THE PROVISIONS OF SUBDIVISION SIX-A OF SECTION THIRTY-TWO HUNDRED TWO OF THIS ARTICLE; OR

(4) A COUNTY CORRECTIONAL FACILITY SUBJECT TO THE PROVISIONS OF SUBDIVISION SEVEN OF SECTION THIRTY-TWO HUNDRED TWO OF THIS ARTICLE; OR

(5) A CHILD CARE INSTITUTION SUBJECT TO THE PROVISIONS OF ARTICLE EIGHTY-ONE OF THIS CHAPTER; OR

(6) A STATE-SUPPORTED SCHOOL FOR THE DEAF OR BLIND SUBJECT TO THE PROVISIONS OF ARTICLE EIGHTY-FIVE OF THIS CHAPTER; OR

(7) A STATE-OPERATED SCHOOL SUBJECT TO THE PROVISIONS OF ARTICLE EIGHTY-SEVEN OR EIGHTY-EIGHT OF THIS CHAPTER; OR

(8) AN APPROVED PRIVATE RESIDENTIAL SCHOOL FOR THE EDUCATION OF STUDENTS WITH DISABILITIES SUBJECT TO THE PROVISIONS OF ARTICLE EIGHTY-NINE OF THIS CHAPTER.

H. EACH DESIGNATED SCHOOL DISTRICT OF ATTENDANCE SHALL ENSURE THAT:

(1) CHILDREN WHO ARE HOMELESS OR IN OUT-OF-HOME CARE HAVE ACCESS TO THE SAME PUBLIC PRE-KINDERGARTEN PROGRAMS, REGULATED BY THE DEPARTMENT, AS ARE PROVIDED TO OTHER CHILDREN RESIDING IN THE SCHOOL DISTRICT. TO ENSURE ACCESS:

(I) THE LIAISON IN THE DESIGNATED DISTRICT SHALL ENSURE IMMEDIATE ENROLLMENT IN A PRE-KINDERGARTEN PROGRAM EVEN IF THE CHILD WHO IS HOMELESS OR IN OUT-OF-HOME CARE DOES NOT HAVE THE DOCUMENTS NORMALLY NEEDED FOR ENROLLMENT;

(II) THE DESIGNATED DISTRICT SHALL WAIVE ANY ENROLLMENT DEADLINES;

(III) IF NECESSARY, THE DESIGNATED DISTRICT SHALL SEEK A CLASSROOM SIZE WAIVER FOR THE DEPARTMENT TO ALLOW THE CHILD WHO IS HOMELESS OR IN OUT-OF-HOME CARE INTO A PRE-KINDERGARTEN CLASS THAT IS AT CAPACITY; AND

(IV) IF NECESSARY, REFER THE CHILD WHO IS HOMELESS OR IN OUT-OF-HOME CARE TO A SCHOOL OUTSIDE OF THE ATTENDANCE ZONE OR COMMUNITY SCHOOL DISTRICT IN WHICH THE TEMPORARY HOUSING LOCATION IS SITUATED IF THE SCHOOLS WITHIN THE ATTENDANCE ZONE OR COMMUNITY SCHOOL DISTRICT DO NOT HAVE CAPACITY IN ANY OF THE PRE-KINDERGARTEN CLASSROOMS.

(2) CHILDREN WHO ARE HOMELESS, IN OUT-OF-HOME CARE, OR SEPARATED FROM PUBLIC SCHOOLS ARE IDENTIFIED AND ACCORDED EQUAL ACCESS TO APPROPRIATE SECONDARY EDUCATION AND SUPPORT SERVICES;

(3) CHILDREN WHO ARE HOMELESS OR IN OUT-OF-HOME CARE WHO MEET THE RELEVANT ELIGIBILITY CRITERIA ARE ABLE TO PARTICIPATE IN FEDERAL, STATE,

OR LOCAL BEFORE-SCHOOL AND AFTER-SCHOOL PROGRAMS, INCLUDING BUT NOT LIMITED TO EXTRACURRICULAR ACTIVITIES.

I. EACH DESIGNATED SCHOOL DISTRICT OF ATTENDANCE, OR THE CHARTER SCHOOL TO THE EXTENT CONSISTENT WITH ARTICLE FIFTY-SIX OF THIS CHAPTER IN THE CASE OF A CHILD WHO IS HOMELESS OR IN OUT-OF-HOME CARE ATTENDING A CHARTER SCHOOL, SHALL ENSURE THAT CHILDREN WHO ARE HOMELESS OR IN OUT-OF-HOME CARE ARE PROVIDED, AT A MINIMUM, SERVICES COMPARABLE TO SERVICES OFFERED TO OTHER STUDENTS IN THE PUBLIC SCHOOL THEY ATTEND, INCLUDING, BUT NOT LIMITED TO, THE FOLLOWING:

(1) TRANSPORTATION SERVICES;

(2) EDUCATIONAL SERVICES FOR WHICH THE CHILD MEETS THE ELIGIBILITY CRITERIA, SUCH AS SERVICES PROVIDED UNDER TITLE I OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 (20 U.S.C. S6301 ET SEQ.) OR SIMILAR STATE OR LOCAL PROGRAMS, EDUCATIONAL PROGRAMS FOR CHILDREN WITH DISABILITIES, EDUCATION PROGRAMS FOR STUDENTS WITH LIMITED ENGLISH PROFICIENCY AND SUMMER SCHOOL;

(3) PROGRAMS IN VOCATIONAL AND TECHNICAL EDUCATION;

(4) PROGRAMS FOR GIFTED AND TALENTED STUDENTS; AND

(5) SCHOOL NUTRITION PROGRAMS.

J. The commissioner shall promulgate regulations setting forth the circumstances pursuant to which a change in designation may be made and establishing a procedure for the identification of the school district of origin.

S 11. Subdivision 3 of section 3209 of the education law, as added by chapter 569 of the laws of 1994, paragraph b as amended by section 28 of part B of chapter 57 of the laws of 2007, is amended to read as follows:

3. Reimbursement.

a. [Where] NOTWITHSTANDING ANY OTHER PROVISION OF LAW, WHERE either the school district of current location or a school district participating in a regional placement plan is designated as the district in which the [homeless] CHILD WHO IS HOMELESS OR IN OUT-OF-HOME CARE child shall attend upon instruction and such [homeless] child's school district of origin is within New York state AND IS DIFFERENT FROM THE SCHOOL DISTRICT OF CURRENT LOCATION, the school district providing instruction shall be eligible for reimbursement by the department, as approved by the commissioner, for the direct cost of educational services, not otherwise reimbursed under special federal programs, calculated pursuant to regulations of the commissioner for the period of time for which such services are provided. The claim for such reimbursement shall be in a form prescribed by the commissioner. The educational costs for such children shall not be otherwise aidable or reimbursable.

b. The school district of origin shall reimburse the department for its expenditure for educational services on behalf of a [homeless] child WHO IS HOMELESS OR IN OUT-OF-HOME CARE pursuant to paragraph a of this subdivision in an amount equal to the school district basic contribution, as such term is defined in subdivision eight of section forty-four hundred one of this chapter, pro-rated for the period of time for which such services were provided in the base year by a school district other than the school district of origin. Upon certification by the commissioner, the comptroller shall deduct from any state funds which become due to the school district of origin an amount equal to the reimbursement required to be made by such school district in accordance with this paragraph, and the amount so deducted shall not be included in the operating expense of such district for the purpose of computing the approved operating expense pursuant to paragraph t of subdivision one of section thirty-six hundred two of this chapter.

S 12. Subdivision 4 of section 3209 of the education law, as added by chapter 569 of the laws of 1994, is amended to read as follows:

4. Transportation.

a. A LOCAL social services district shall provide for the transportation of each homeless child who is eligible for benefits pursuant to section three hundred fifty-j of the social services law, to and from a temporary housing location in which the child was placed by the LOCAL social services district and the school attended by such child pursuant to this section, if such temporary housing facility is located outside of the designated school district pursuant to paragraph a of subdivision two of this section. A LOCAL social services district shall be authorized to contract with a board of education or a board of cooperative educational services for the provision of such transportation. This paragraph shall apply to placements made by a LOCAL social services district without regard to whether a payment is made by the district to the operator of the temporary housing facility.

b. The division for youth, to the extent funds are provided for such purpose, as determined by the director of the budget, shall provide for the transportation of each homeless child who is living in a residential program for runaway and homeless youth established pursuant to article nineteen-H of the executive law, to and from such residential program, and the school attended by such child pursuant to this section, if such temporary housing location is located outside the designated school district. The division for youth or the director of a residential program for runaway and homeless youth shall be authorized to contract with a school district or a board of cooperative educational services for the provision of such transportation.

c. Notwithstanding any other provision of law, any homeless child not entitled to receive transportation pursuant to paragraph a OR B of this subdivision who requires transportation in order to attend [a school district designated pursuant to paragraph a of subdivision two of this section outside of the district in which such child is housed] THE SCHOOL OF ORIGIN, shall be entitled to receive such transportation pursuant to this paragraph. [If the designated school district pursuant to paragraph a of subdivision two of this section is the school district of origin or a school district participating in a regional placement plan, such school district] THE DISTRICT IN WHICH THE SCHOOL OF ORIGIN IS LOCATED shall provide transportation to and from the child's temporary housing location and the school the child legally attends. Such transportation shall not be in excess of fifty miles each way except where the commissioner certifies that transportation in excess of fifty miles is in the best interest of the child. Any cost incurred for such transportation that is allowable pursuant to the applicable provision of parts two and three of article seventy-three of this chapter or herein, shall be aidable pursuant to subdivision seven of section thirty-six hundred two of this chapter, provided that the approved transportation expense shall not exceed an amount determined by the commissioner to be the total cost for providing the most cost-effective mode of such transportation in a manner consistent with commissioner's regulations. The commissioner shall promulgate regulations setting forth the circumstances pursuant to which parent accompaniment for transportation may be reimbursable, including but not limited to: the age of the child; the distance of the transportation; the cost-effectiveness of the transportation; and whether the child has a handicapping condition.

d. Notwithstanding any other provision of law, where [a homeless child designates the school district of current location as the district the

child will attend, such] THE SCHOOL DISTRICT OF CURRENT LOCATION IS DESIGNATED FOR A HOMELESS CHILD OR A CHILD IN OUT-OF-HOME CARE, THE DESIGNATED school district shall provide transportation to such child on the same basis as a resident student.

e. [Notwithstanding any other provision of law, if a homeless child chooses to remain in the public school building the child previously attended pursuant to subparagraph one of paragraph b of subdivision two of this section or paragraph c of subdivision two of this section the school district shall provide transportation to and from the child's temporary housing location and the school the child legally attends if such temporary housing is located in a different attendance zone or community school district within such district. The cost of such transportation shall be reimbursed in accordance with the provisions of paragraph c of this subdivision.]

NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ANY CHILD IN OUT-OF-HOME CARE WHO IS NOT AWAITING FOSTER CARE PLACEMENT AND WHO REQUIRES TRANSPORTATION IN ORDER TO ATTEND THE SCHOOL OF ORIGIN SHALL BE PROVIDED WITH TRANSPORTATION PURSUANT TO THIS SUBDIVISION. THE LOCAL SOCIAL SERVICES DISTRICT SHALL PROVIDE TRANSPORTATION TO AND FROM THE OUT-OF-HOME CARE PLACEMENT AND THE SCHOOL THE CHILD LEGALLY ATTENDS. SUCH TRANSPORTATION SHALL NOT BE IN EXCESS OF FIFTY MILES EACH WAY, EXCEPT WHERE THE FAMILY COURT WITH JURISDICTION OVER THE CHILD DETERMINES THAT TRANSPORTATION IN EXCESS OF FIFTY MILES IS IN THE BEST INTERESTS OF THE CHILD. A LOCAL SOCIAL SERVICES DISTRICT SHALL BE AUTHORIZED TO CONTRACT WITH A BOARD OF EDUCATION OR A BOARD OF COOPERATIVE EDUCATIONAL SERVICES FOR THE PROVISION OF SUCH TRANSPORTATION.

F. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ANY CHILD WHO REQUIRES TRANSPORTATION TO CONTINUE ATTENDANCE IN THE DESIGNATED SCHOOL THROUGH THE REMAINDER OF THE SCHOOL YEAR IN WHICH THE CHILD MOVES INTO PERMANENT HOUSING OR IS FINALLY DISCHARGED FROM OUT-OF-HOME CARE PURSUANT TO SUBPARAGRAPH ONE OF PARAGRAPH B OF SUBDIVISION TWO OF THIS SECTION SHALL BE ENTITLED TO TRANSPORTATION UNDER THIS PARAGRAPH. SUCH TRANSPORTATION SHALL BE PROVIDED PURSUANT TO APPLICABLE PROVISIONS OF THIS SUBDIVISION.

G. (1) WHERE A CHILD WHO IS HOMELESS OR IN OUT-OF-HOME CARE ATTENDS A SUMMER EDUCATIONAL PROGRAM IN THE DESIGNATED SCHOOL DISTRICT PURSUANT TO PARAGRAPH A OF SUBDIVISION TWO OF THIS SECTION THAT IS NEEDED FOR SUCH CHILD TO ADVANCE TO THE NEXT GRADE OR TO COMPLETE A HIGH SCHOOL DIPLOMA WITH HIS OR HER PEERS OF THE SAME AGE AND THE TEMPORARY HOUSING LOCATION OF THE STUDENT IS OUTSIDE OF SUCH DESIGNATED SCHOOL DISTRICT, SUCH CHILD SHALL BE ENTITLED TO TRANSPORTATION PURSUANT TO APPLICABLE PROVISIONS OF THIS SUBDIVISION.

(2) WHERE A CHILD WHO IS HOMELESS OR IN OUT-OF-HOME CARE ATTENDS A SUMMER EDUCATIONAL PROGRAM OUTSIDE OF THE DESIGNATED SCHOOL DISTRICT THAT IS NEEDED FOR SUCH CHILD TO ADVANCE TO THE NEXT GRADE OR TO COMPLETE A HIGH SCHOOL DIPLOMA WITH HIS OR HER PEERS OF THE SAME AGE AND THE TEMPORARY HOUSING LOCATION OF THE STUDENT IS LOCATED OUTSIDE OF THE SCHOOL DISTRICT WHERE THE SUMMER EDUCATIONAL PROGRAM IS LOCATED, SUCH CHILD SHALL BE ENTITLED TO TRANSPORTATION PURSUANT TO APPLICABLE PROVISIONS OF THIS SUBDIVISION.

H. UPON PLACEMENT IN OUT-OF-HOME CARE OR A CHANGE IN OUT-OF-HOME CARE PLACEMENT, THE LOCAL SOCIAL SERVICES DISTRICT SHALL IMMEDIATELY PROVIDE EMERGENCY TRANSPORTATION TO AND FROM THE OUT-OF-HOME CARE PLACEMENT AND THE DESIGNATED SCHOOL WHERE THE CHILD IS ENTITLED TO TRANSPORTATION PURSUANT TO APPLICABLE PROVISIONS OF THIS SUBDIVISION. EMERGENCY TRANSPORTATION SHALL CONTINUE UNTIL TRANSPORTATION IS PROVIDED PURSUANT TO APPLICABLE PROVISIONS OF THIS SUBDIVISION.

S 13. Subdivision 7 of section 3209 of the education law is renumbered subdivision 8 and a new subdivision 7 is added to read as follows:

7. DISPUTE RESOLUTION.

A. EACH DISTRICT SHALL:

(1) ESTABLISH PROCEDURES, IN ACCORDANCE WITH 42 U.S.C. SECTION 11432(G)(3)(E), FOR THE PROMPT RESOLUTION OF DISPUTES REGARDING, BUT NOT LIMITED TO, SCHOOL SELECTION, ENROLLMENT, TRANSPORTATION, A CHILD'S STATUS AS A HOMELESS CHILD OR UNACCOMPANIED YOUTH AS DEFINED IN THE REGULATIONS OF THE COMMISSIONER, A CHILD'S STATUS AS A CHILD IN OUT-OF-HOME CARE; AND

(2) IMMEDIATELY ENROLL THE CHILD WHO IS HOMELESS OR IN OUT-OF-HOME CARE, OR THE CHILD WHO CLAIMS TO BE SUCH, IN THE SCHOOL WHERE ENROLLMENT IS SOUGHT, OR CONTINUE ENROLLMENT OF SUCH CHILD IN THE SCHOOL WHERE ENROLLMENT IS SOUGHT; AND

(3) PROVIDE TRANSPORTATION, IF REQUESTED, EXCEPT WHERE THE LOCAL SOCIAL SERVICES DISTRICT IS PROVIDING TRANSPORTATION PURSUANT TO PARAGRAPH (E) OF SUBDIVISION SEVEN OF SECTION THREE HUNDRED SEVENTY-THREE-B OF THE SOCIAL SERVICES LAW FOR A CHILD IN OUT-OF-HOME CARE; AND

(4) ASSIST THE DESIGNATOR WITH ANY APPEAL TO THE DEPARTMENT PURSUANT TO THE REGULATIONS OF THE COMMISSIONER; AND

(5) CONTINUE ENROLLMENT AND TRANSPORTATION, IF REQUESTED, FOR THE DURATION OF THE DISPUTE RESOLUTION PROCESS.

B. NOTWITHSTANDING PARAGRAPH A OF THIS SUBDIVISION, IF THERE IS A DISPUTE AMONG ANY OF THE PARTIES TO A PROCEEDING IN FAMILY COURT REGARDING, BUT NOT LIMITED TO, SCHOOL SELECTION, ENROLLMENT, OR TRANSPORTATION FOR A CHILD IN OUT-OF-HOME CARE, THE AGGRIEVED PARTY SHALL FOLLOW THE DISPUTE RESOLUTION PROCESS OUTLINED IN SUBDIVISION SEVEN OF SECTION THREE HUNDRED SEVENTY-THREE-B OF THE SOCIAL SERVICES LAW.

S 14. Subdivision 1 of section 4410-a of the education law, as added by chapter 53 of the laws of 1990 and renumbered by chapter 705 of the laws of 1992, paragraph b as amended by chapter 569 of the laws of 1994, paragraphs d, e and g as amended by chapter 705 of the laws of 1992, paragraph f as amended by chapter 474 of the laws of 1996, and paragraph h as amended by chapter 280 of the laws of 1994, is amended to read as follows:

1. Definitions. For the purpose of this section, the following definitions shall apply:

a. "[Foster care child] CHILD IN OUT-OF-HOME CARE" shall mean a child [placed in foster care by a social services district] IN OUT-OF-HOME CARE AS DEFINED IN PARAGRAPH B OF SUBDIVISION ONE OF SECTION THIRTY-TWO HUNDRED NINE OF THIS CHAPTER.

b. "Homeless child" shall mean a homeless child as defined in paragraph a of subdivision one of section thirty-two hundred nine of this chapter.

c. "Municipality" shall mean a county outside the city of New York or the city, in the case of a county in the city of New York.

d. "Municipality of current location" shall mean a municipality in which a child lives which is different from the municipality in which a child or such child's family lived [at the time a social services district assumed responsibility for the placement of such child or family, or] at the time such child was admitted for care and/or treatment in a facility licensed or operated by another state agency.

e. "Municipality of residence" shall mean the municipality in which a child or such child's family lived at the time the [local social services district assumed responsibility for the placement of such child or family] CIRCUMSTANCES AROSE WHICH CAUSED SUCH CHILD TO BECOME HOME-

LESS OR ENTER OUT-OF-HOME CARE, or at the time such child was admitted for care and/or treatment in a facility licensed or operated by another state agency.

f. "Preschool child with a disability" shall mean a child eligible for services pursuant to section forty-four hundred ten of this [chapter] ARTICLE. A "preschool child with a handicapping condition" means a preschool child with a disability.

g. "School district of current location" shall mean a school district in which a child lives which is different from the school district in which a child or such child's family lived [at the time a social services district assumed responsibility for the placement of such child or family, or] at the time such child was admitted for care and/or treatment in a facility licensed or operated by another state agency.

h. "Child in residential care" shall mean a child residing in a facility licensed or operated by another state agency as defined by section 1.03 of the mental hygiene law or by section two of the public health law.

S 15. Subdivision 2 of section 4410-a of the education law, as amended by chapter 280 of the laws of 1994, is amended to read as follows:

2. School district evaluation and placement responsibility.

A. The school district of current location of a [foster care or homeless child or] child in residential care shall be responsible for the evaluation and placement procedures prescribed for a preschool child suspected of having OR WITH a handicapping condition pursuant to section forty-four hundred ten of this [chapter] ARTICLE. In issuing its written notice of determination of services, the board of education of such school district shall identify the municipality of residence of a preschool child with a handicapping condition who is a [foster care or homeless child or] child in residential care. Such notice of determination shall be transmitted to both the municipality of residence and the municipality of current location.

B. THE SCHOOL DISTRICT DESIGNATED PURSUANT TO PARAGRAPH A OF SUBDIVISION TWO OF SECTION THIRTY-TWO HUNDRED NINE OF THIS CHAPTER SHALL BE RESPONSIBLE FOR THE EVALUATION AND PLACEMENT PROCEDURES PRESCRIBED FOR A PRESCHOOL CHILD SUSPECTED OF HAVING OR WITH A DISABILITY WHO IS HOMELESS OR IN OUT-OF-HOME CARE. IN ISSUING ITS WRITTEN NOTICE OF DETERMINATION OF SERVICES, THE BOARD OF EDUCATION OF SUCH SCHOOL DISTRICT SHALL IDENTIFY THE MUNICIPALITY OF RESIDENCE OF A PRESCHOOL CHILD WITH A DISABILITY WHO IS HOMELESS OR IN OUT-OF-HOME CARE. SUCH NOTICE OF DETERMINATION SHALL BE TRANSMITTED TO BOTH THE MUNICIPALITY OF RESIDENCE AND THE MUNICIPALITY OF RECORD, AS DEFINED IN SUBDIVISION THREE OF THIS SECTION.

S 16. Subdivision 3 of section 4410-a of the education law, as amended by chapter 280 of the laws of 1994, is amended to read as follows:

3. Contract and payment responsibility.

A. The municipality of current location shall be the municipality of record for a preschool child with a handicapping condition who is a [foster care or homeless child or] child in residential care for the purposes of section forty-four hundred ten of this [chapter] ARTICLE provided, however, that, notwithstanding the provision of paragraph b of subdivision eleven of such section, the state shall reimburse one hundred percent of the approved costs paid by such municipality which shall be offset by the local contribution due pursuant to subdivision four of this section.

B. THE MUNICIPALITY OF RECORD SHALL BE THE MUNICIPALITY IN WHICH THE SCHOOL DISTRICT DESIGNATED PURSUANT TO PARAGRAPH A OF SUBDIVISION TWO OF SECTION THIRTY-TWO HUNDRED NINE OF THIS CHAPTER IS LOCATED FOR A

PRESCHOOL CHILD WITH A DISABILITY WHO IS HOMELESS OR IN OUT-OF-HOME CARE FOR THE PURPOSES OF SECTION FORTY-FOUR HUNDRED TEN OF THIS ARTICLE PROVIDED, HOWEVER, THAT, NOTWITHSTANDING THE PROVISION OF PARAGRAPH B OF SUBDIVISION ELEVEN OF SUCH SECTION, THE STATE SHALL REIMBURSE ONE HUNDRED PERCENT OF THE APPROVED COSTS PAID BY SUCH MUNICIPALITY WHICH SHALL BE OFFSET BY THE LOCAL CONTRIBUTION DUE PURSUANT TO SUBDIVISION FOUR OF THIS SECTION.

S 17. Subdivision 4 of section 4410-a of the education law, as amended by chapter 280 of the laws of 1994, is amended to read as follows:

4. Local contribution. The municipality of residence shall be financially responsible for the local contribution which shall equal that portion of the approved costs of services to a [foster care or homeless] child WHO IS HOMELESS OR IN OUT-OF-HOME CARE or child in residential care with a handicapping condition which would not be reimbursed pursuant to the schedule set out in paragraph b of subdivision eleven of section forty-four hundred ten of this [chapter] ARTICLE. The commissioner shall certify to the comptroller the amount of the local contribution owed by each municipality to the state. The comptroller shall deduct the amount of such local contribution first from any moneys due the municipality pursuant to such section and then from any other moneys due or to become due such municipality.

S 18. This act shall take effect on the first of July after it shall have become a law, provided, however, that the amendments to paragraph a of subdivision 1 of section 3209 of the education law made by section eight of this act shall be subject to the expiration and reversion of such paragraph pursuant to section 5 of chapter 101 of the laws of 2003, as amended, when upon such date the provisions of section nine of this act shall take effect; and provided further that the amendments to paragraph a-1 of subdivision 1 of section 3209 of the education law made by section eight of this act shall not affect the expiration and reversion of such paragraph and shall be deemed to expire therewith.