

6185

2009-2010 Regular Sessions

I N S E N A T E

September 23, 2009

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

AN ACT to amend the social services law 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 ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. The social services law is amended by adding a new section
2 373-b to read as follows:
3 S 373-B. SCHOOL PLACEMENT. 1. THE LEGISLATURE RECOGNIZES THAT THE
4 EDUCATIONAL OUTCOMES OF ALL CHILDREN ARE CRITICAL TO BECOMING PRODUCTIVE
5 CITIZENS. IN TODAY'S ECONOMY, EDUCATIONAL ATTAINMENT IS DIRECTLY LINKED
6 TO EMPLOYMENT OPPORTUNITIES AND WAGES EARNED. REGARDLESS OF FAMILY OR
7 FOSTER CARE STATUS, UNPLANNED SCHOOL MOBILITY IS CONSIDERED TO HAVE
8 UNFAVORABLE CONSEQUENCES FOR ACADEMIC SUCCESS, SELF ESTEEM AND CLASSROOM
9 BEHAVIOR. THE LEGISLATURE FINDS THAT ESTABLISHING A PROCEDURE TO MINI-
10 MIZE DISRUPTIONS IN EDUCATION FOR CHILDREN IN OUT-OF-HOME CARE CAN LEAD
11 TO BETTER LIFELONG OUTCOMES FOR CHILDREN.
12 2. DEFINITIONS. (A) "SCHOOL OF ORIGIN" SHALL MEAN:
13 (I) THE PUBLIC SCHOOL THAT THE CHILD ATTENDED OR WAS ENTITLED TO
14 ATTEND WHEN PLACED IN OUT-OF-HOME CARE; OR
15 (II) THE SCHOOL IN WHICH THE CHILD WAS LAST ENROLLED.
16 (B) "SCHOOL DISTRICT OF ORIGIN" SHALL MEAN THE SCHOOL DISTRICT WITHIN
17 THE STATE OF NEW YORK IN WHICH THE CHILD WAS ATTENDING A PUBLIC SCHOOL
18 ON A TUITION-FREE BASIS OR WAS ENTITLED TO ATTEND WHEN THE CHILD WAS
19 PLACED IN OUT-OF-HOME CARE.
20 (C) "DESIGNATED SCHOOL" SHALL MEAN THE SCHOOL THAT:
21 (I) THE LOCAL SOCIAL SERVICES DISTRICT, THE PARENT OF THE CHILD, AND
22 THE ATTORNEY FOR THE CHILD HAVE AGREED IS IN THE BEST INTERESTS OF THE
23 CHILD TO ATTEND; OR

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

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

(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 IMMEDIATE 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

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

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

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

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

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

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

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

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

53 (I) IMMEDIATELY ENROLL THE CHILD IN THE SCHOOL WHERE ENROLLMENT IS
54 SOUGHT OR CONTINUE ENROLLMENT OF THE CHILD IN THE SCHOOL WHERE ENROLL-
55 MENT IS SOUGHT;

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

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

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

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

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

15 (I) THE SAFETY OF THE CHILD;

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

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

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

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

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

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

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

29 10. (A) UPON PLACEMENT IN OUT-OF-HOME CARE OR A CHANGE IN OUT-OF-HOME
30 CARE PLACEMENT, THE LOCAL SOCIAL SERVICES DISTRICT SHALL IMMEDIATELY
31 PROVIDE EMERGENCY TRANSPORTATION TO AND FROM THE OUT-OF-HOME CARE PLACE-
32 MENT AND THE DESIGNATED SCHOOL WHERE THE CHILD IS ENTITLED TO TRANSPOR-
33 TATION PURSUANT TO APPLICABLE PROVISIONS OF THIS SUBDIVISION. EMERGENCY
34 TRANSPORTATION SHALL CONTINUE UNTIL TRANSPORTATION IS PROVIDED PURSUANT
35 TO APPLICABLE PROVISIONS OF THIS SUBDIVISION.

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

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

1 (D) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ANY CHILD IN
2 OUT-OF-HOME CARE WHO IS NOT AWAITING FOSTER CARE PLACEMENT AND WHO
3 REQUIRES TRANSPORTATION IN ORDER TO ATTEND THE SCHOOL OF ORIGIN SHALL BE
4 PROVIDED WITH TRANSPORTATION PURSUANT TO PARAGRAPH (B) OF THIS SUBDIVI-
5 SION UNTIL THE END OF THE SCHOOL YEAR IN WHICH HE OR SHE IS DISCHARGED
6 FROM CARE. THE LOCAL SOCIAL SERVICES DISTRICT SHALL PROVIDE TRANSPORTA-
7 TION TO AND FROM THE OUT-OF-HOME CARE PLACEMENT AND THE SCHOOL THE CHILD
8 LEGALLY ATTENDS. SUCH TRANSPORTATION SHALL NOT BE IN EXCESS OF FIFTY
9 MILES EACH WAY EXCEPT WHERE THE COURT DETERMINES THAT TRANSPORTATION IN
10 EXCESS OF FIFTY MILES IS IN THE BEST INTERESTS OF THE CHILD. A LOCAL
11 SOCIAL SERVICES DISTRICT SHALL BE AUTHORIZED TO CONTRACT WITH A BOARD OF
12 EDUCATION OR A BOARD OF COOPERATIVE EDUCATIONAL SERVICES FOR THE
13 PROVISION OF SUCH TRANSPORTATION.

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

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

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

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

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

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

47 S 3. The section heading of section 3209 of the education law, as
48 amended by chapter 569 of the laws of 1994, is amended to read as
49 follows:

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

52 S 4. Subdivision 1 of section 3209 of the education law, as added by
53 chapter 569 of the laws of 1994, paragraphs a and a-1 as amended by
54 chapter 101 of the laws of 2003, is amended to read as follows:

55 1. Definitions.

1 a. Homeless child. For the purposes of this article, the term "home-
2 less child" OR "CHILD WHO IS HOMELESS" shall mean:

3 (1) a child or youth who lacks a fixed, regular, and adequate night-
4 time residence, including a child or youth who is:

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

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

9 (iii) abandoned in hospitals;

10 (iv) awaiting foster care placement; or

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

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

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

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

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

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

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

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

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

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

47 c. Designator. The term "designator" shall mean:

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

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

52 (3) the director of a residential program for runaway and homeless
53 youth established pursuant to article nineteen-H of the executive law,
54 in consultation with the homeless child, where such homeless child is
55 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.

1 S 5. Paragraph a of subdivision 1 of section 3209 of the education
2 law, as added by chapter 569 of the laws of 1994, is amended to read as
3 follows:

4 a. Homeless child. For the purposes of this article, the term "home-
5 less child" OR "CHILD WHO IS HOMELESS" shall mean:

6 (1) a child who lacks a fixed, regular, and adequate nighttime resi-
7 dence; or

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

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

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

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

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

25 S 6. Subdivision 2 of section 3209 of the education law, as amended by
26 chapter 569 of the laws of 1994, is amended to read as follows:

27 2. Choice of SCHOOL AND district OF ATTENDANCE.

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

34 (1) the school district of current location;

35 (2) the school district of origin; or

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

37 b. (1) Notwithstanding any other provision of law to the contrary,
38 [where the public school district in which a homeless child is temporar-
39 ily housed is the same school district the child was attending on a
40 tuition-free basis or was entitled to attend when circumstances arose
41 which caused the child to become homeless, the homeless child shall be
42 entitled to attend the schools of such district without the payment of
43 tuition in accordance with subdivision one of section thirty-two hundred
44 two of this article. Such child may choose to remain in the public
45 school building they previously attended until the end of the school
46 year and for one additional year if that year constitutes the child's
47 terminal year in such building in lieu of the school serving the attend-
48 ance zone in which the temporary housing facility is located.] THE CHILD
49 WHO IS HOMELESS OR IN OUT-OF-HOME CARE SHALL BE ENTITLED TO ATTEND THE
50 DESIGNATED SCHOOL IN THE DESIGNATED DISTRICT PURSUANT TO PARAGRAPH A OF
51 THIS SUBDIVISION WITHOUT PAYMENT OF TUITION:

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

54 (II) THROUGH THE REMAINDER OF THE SCHOOL YEAR IN WHICH THE CHILD MOVES
55 INTO PERMANENT HOUSING OR IS FINALLY DISCHARGED FROM OUT-OF-HOME CARE,
56 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,

1 (8) the complete address where the family was located at the time
2 circumstances arose which caused such child to become homeless OR ENTER
3 OUT-OF-HOME CARE,

4 (9) WHETHER TRANSPORTATION IS REQUESTED, and

5 (10) any other information required by the commissioner.

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

22 e. Upon [receipt of the designation form] SELECTION OF A SCHOOL OR
23 SCHOOL DISTRICT OF ATTENDANCE BY A DESIGNATOR OR IDENTIFICATION OF A
24 STUDENT AS HOMELESS OR IN OUT-OF-HOME CARE BY ITS LOCAL EDUCATIONAL
25 AGENCY LIAISON, the [designated] AFFECTED school district shall imme-
26 diately AND NO LATER THAN ONE BUSINESS DAY:

27 (1) admit the [homeless] child WHO IS HOMELESS OR IN OUT-OF-HOME CARE
28 EVEN IF THE CHILD IS UNABLE TO PRODUCE RECORDS NORMALLY REQUIRED FOR
29 ENROLLMENT, SUCH AS PREVIOUS ACADEMIC RECORDS, MEDICAL RECORDS, PROOF OF
30 RESIDENCY OR OTHER DOCUMENTATION;

31 (2) treat the [homeless] child WHO IS HOMELESS OR IN OUT-OF-HOME CARE
32 as a resident for all purposes;

33 (3) WHERE APPLICABLE, make a written request to the school district
34 where the child's records are located for a copy of such records; and

35 (4) [forward the designation form to the commissioner, and the school
36 district of origin where applicable] WHERE APPLICABLE, ASSIST THE CHILD
37 AND HIS OR HER PARENT OR PERSON IN PARENTAL RELATION, OR THE LOCAL
38 SOCIAL SERVICES DISTRICT FOR A CHILD IN OUT-OF-HOME CARE, IN COMPLETING
39 THE DESIGNATION FORM.

40 f. Within five days of receipt of a request for records pursuant to
41 subparagraph three of paragraph e of this subdivision, the school
42 district shall forward, in a manner consistent with state and federal
43 law, a complete copy of the [homeless child's] records FOR THE CHILD WHO
44 IS HOMELESS OR IN OUT-OF-HOME CARE, including, but not limited to, proof
45 of age, academic records, evaluations, immunization records, and guardi-
46 anship papers, if applicable.

47 G. WHERE THE SCHOOL OF ORIGIN IS A CHARTER SCHOOL, THE SCHOOL DISTRICT
48 DESIGNATED PURSUANT TO SUBDIVISION TWO OF THIS SECTION SHALL BE DEEMED
49 TO BE THE SCHOOL DISTRICT OF RESIDENCE OF SUCH CHILD FOR PURPOSES OF
50 FISCAL AND PROGRAMMATIC RESPONSIBILITY UNDER ARTICLE FIFTY-SIX OF THIS
51 CHAPTER. WHERE A CHILD WHO IS HOMELESS OR IN OUT-OF-HOME CARE BECOMES
52 PERMANENTLY HOUSED BY REASON OF PLACEMENT IN ONE OF THE FOLLOWING RESI-
53 DENTIAL SETTINGS, THE SCHOOL DISTRICT OF ORIGIN SHALL BE DEEMED TO BE
54 THE STUDENT'S SCHOOL DISTRICT OF RESIDENCE FOR PURPOSES OF ASSIGNING
55 FISCAL AND/OR PROGRAMMATIC RESPONSIBILITY UNDER ANY RELATED PROVISION OF
56 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

1 STATE OR LOCAL PROGRAMS, EDUCATIONAL PROGRAMS FOR CHILDREN WITH DISABIL-
2 ITIES, EDUCATION PROGRAMS FOR STUDENTS WITH LIMITED ENGLISH PROFICIENCY
3 AND SUMMER SCHOOL;

4 (3) PROGRAMS IN VOCATIONAL AND TECHNICAL EDUCATION;

5 (4) PROGRAMS FOR GIFTED AND TALENTED STUDENTS; AND

6 (5) SCHOOL NUTRITION PROGRAMS.

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

11 S 7. Subdivision 3 of section 3209 of the education law, as added by
12 chapter 569 of the laws of 1994, paragraph b as amended by section 28 of
13 part B of chapter 57 of the laws of 2007, is amended to read as follows:

14 3. Reimbursement.

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

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

44 S 8. Subdivision 4 of section 3209 of the education law, as added by
45 chapter 569 of the laws of 1994, is amended to read as follows:

46 4. Transportation.

47 a. A LOCAL social services district shall provide for the transporta-
48 tion of each homeless child who is eligible for benefits pursuant to
49 section three hundred fifty-j of the social services law, to and from a
50 temporary housing location in which the child was placed by the LOCAL
51 social services district and the school attended by such child pursuant
52 to this section, if such temporary housing facility is located outside
53 of the designated school district pursuant to paragraph a of subdivision
54 two of this section. A LOCAL social services district shall be author-
55 ized to contract with a board of education or a board of cooperative
56 educational services for the provision of such transportation. This

1 paragraph shall apply to placements made by a LOCAL social services
2 district without regard to whether a payment is made by the district to
3 the operator of the temporary housing facility.

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

15 c. Notwithstanding any other provision of law, any homeless child not
16 entitled to receive transportation pursuant to paragraph a OR B of this
17 subdivision who requires transportation in order to attend [a school
18 district designated pursuant to paragraph a of subdivision two of this
19 section outside of the district in which such child is housed] THE
20 SCHOOL OF ORIGIN, shall be entitled to receive such transportation
21 pursuant to this paragraph. [If the designated school district pursuant
22 to paragraph a of subdivision two of this section is the school district
23 of origin or a school district participating in a regional placement
24 plan, such school district] THE DISTRICT IN WHICH THE SCHOOL OF ORIGIN
25 IS LOCATED shall provide transportation to and from the child's tempo-
26 rary housing location and the school the child legally attends. Such
27 transportation shall not be in excess of fifty miles each way except
28 where the commissioner certifies that transportation in excess of fifty
29 miles is in the best interest of the child. Any cost incurred for such
30 transportation that is allowable pursuant to the applicable provision of
31 parts two and three of article seventy-three of this chapter or herein,
32 shall be aidable pursuant to subdivision seven of section thirty-six
33 hundred two of this chapter, provided that the approved transportation
34 expense shall not exceed an amount determined by the commissioner to be
35 the total cost for providing the most cost-effective mode of such trans-
36 portation in a manner consistent with commissioner's regulations. The
37 commissioner shall promulgate regulations setting forth the circum-
38 stances pursuant to which parent accompaniment for transportation may be
39 reimbursable, including but not limited to: the age of the child; the
40 distance of the transportation; the cost-effectiveness of the transpor-
41 tation; and whether the child has a handicapping condition.

42 d. Notwithstanding any other provision of law, where [a homeless child
43 designates the school district of current location as the district the
44 child will attend, such] THE SCHOOL DISTRICT OF CURRENT LOCATION IS
45 DESIGNATED FOR A HOMELESS CHILD OR A CHILD IN OUT-OF-HOME CARE, THE
46 DESIGNATED school district shall provide transportation to such child on
47 the same basis as a resident student.

48 e. [Notwithstanding any other provision of law, if a homeless child
49 chooses to remain in the public school building the child previously
50 attended pursuant to subparagraph one of paragraph b of subdivision two
51 of this section or paragraph c of subdivision two of this section the
52 school district shall provide transportation to and from the child's
53 temporary housing location and the school the child legally attends if
54 such temporary housing is located in a different attendance zone or
55 community school district within such district. The cost of such trans-

1 portation shall be reimbursed in accordance with the provisions of para-
2 graph c of this subdivision.]

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

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

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

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

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

45 S 9. Subdivision 7 of section 3209 of the education law is renumbered
46 subdivision 8 and a new subdivision 7 is added to read as follows:

47 7. DISPUTE RESOLUTION.

48 A. EACH DISTRICT SHALL:

49 (1) ESTABLISH PROCEDURES, IN ACCORDANCE WITH 42 U.S.C. SECTION
50 11432(G)(3)(E), FOR THE PROMPT RESOLUTION OF DISPUTES REGARDING, BUT NOT
51 LIMITED TO, SCHOOL SELECTION, ENROLLMENT, TRANSPORTATION, A CHILD'S
52 STATUS AS A HOMELESS CHILD OR UNACCOMPANIED YOUTH AS DEFINED IN THE
53 REGULATIONS OF THE COMMISSIONER, A CHILD'S STATUS AS A CHILD IN OUT-OF-
54 HOME CARE; AND

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

1 IS SOUGHT, OR CONTINUE ENROLLMENT OF SUCH CHILD IN THE SCHOOL WHERE
2 ENROLLMENT IS SOUGHT; AND

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

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

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

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

17 S 10. Subdivision 1 of section 4410-a of the education law, as added
18 by chapter 53 of the laws of 1990 and renumbered by chapter 705 of the
19 laws of 1992, paragraph b as amended by chapter 569 of the laws of 1994,
20 paragraphs d, e and g as amended by chapter 705 of the laws of 1992,
21 paragraph f as amended by chapter 474 of the laws of 1996, and paragraph
22 h as amended by chapter 280 of the laws of 1994, is amended to read as
23 follows:

24 1. Definitions. For the purpose of this section, the following defi-
25 nitions shall apply:

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

30 b. "Homeless child" shall mean a homeless child as defined in para-
31 graph a of subdivision one of section thirty-two hundred nine of this
32 chapter.

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

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

41 e. "Municipality of residence" shall mean the municipality in which a
42 child or such child's family lived at the time the [local social
43 services district assumed responsibility for the placement of such child
44 or family] CIRCUMSTANCES AROSE WHICH CAUSED SUCH CHILD TO BECOME HOME-
45 LESS OR ENTER OUT-OF-HOME CARE, or at the time such child was admitted
46 for care and/or treatment in a facility licensed or operated by another
47 state agency.

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

52 g. "School district of current location" shall mean a school district
53 in which a child lives which is different from the school district in
54 which a child or such child's family lived [at the time a social
55 services district assumed responsibility for the placement of such child

1 or family, or] at the time such child was admitted for care and/or
2 treatment in a facility licensed or operated by another state agency.

3 h. "Child in residential care" shall mean a child residing in a facil-
4 ity licensed or operated by another state agency as defined by section
5 1.03 of the mental hygiene law or by section two of the public health
6 law.

7 S 11. Subdivision 2 of section 4410-a of the education law, as amended
8 by chapter 280 of the laws of 1994, is amended to read as follows:

9 2. School district evaluation and placement responsibility.

10 A. The school district of current location of a [foster care or home-
11 less child or] child in residential care shall be responsible for the
12 evaluation and placement procedures prescribed for a preschool child
13 suspected of having OR WITH a handicapping condition pursuant to section
14 forty-four hundred ten of this [chapter] ARTICLE. In issuing its writ-
15 ten notice of determination of services, the board of education of such
16 school district shall identify the municipality of residence of a
17 preschool child with a handicapping condition who is a [foster care or
18 homeless child or] child in residential care. Such notice of determi-
19 nation shall be transmitted to both the municipality of residence and
20 the municipality of current location.

21 B. THE SCHOOL DISTRICT DESIGNATED PURSUANT TO PARAGRAPH A OF SUBDIVI-
22 SION TWO OF SECTION THIRTY-TWO HUNDRED NINE OF THIS CHAPTER SHALL BE
23 RESPONSIBLE FOR THE EVALUATION AND PLACEMENT PROCEDURES PRESCRIBED FOR A
24 PRESCHOOL CHILD SUSPECTED OF HAVING OR WITH A DISABILITY WHO IS HOMELESS
25 OR IN OUT-OF-HOME CARE. IN ISSUING ITS WRITTEN NOTICE OF DETERMINATION
26 OF SERVICES, THE BOARD OF EDUCATION OF SUCH SCHOOL DISTRICT SHALL IDEN-
27 TIFY THE MUNICIPALITY OF RESIDENCE OF A PRESCHOOL CHILD WITH A DISABILI-
28 TY WHO IS HOMELESS OR IN OUT-OF-HOME CARE. SUCH NOTICE OF DETERMINATION
29 SHALL BE TRANSMITTED TO BOTH THE MUNICIPALITY OF RESIDENCE AND THE MUNI-
30 CIPALITY OF RECORD, AS DEFINED IN SUBDIVISION THREE OF THIS SECTION.

31 S 12. Subdivision 3 of section 4410-a of the education law, as amended
32 by chapter 280 of the laws of 1994, is amended to read as follows:

33 3. Contract and payment responsibility.

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

43 B. THE MUNICIPALITY OF RECORD SHALL BE THE MUNICIPALITY IN WHICH THE
44 SCHOOL DISTRICT DESIGNATED PURSUANT TO PARAGRAPH A OF SUBDIVISION TWO OF
45 SECTION THIRTY-TWO HUNDRED NINE OF THIS CHAPTER IS LOCATED FOR A
46 PRESCHOOL CHILD WITH A DISABILITY WHO IS HOMELESS OR IN OUT-OF-HOME CARE
47 FOR THE PURPOSES OF SECTION FORTY-FOUR HUNDRED TEN OF THIS ARTICLE
48 PROVIDED, HOWEVER, THAT, NOTWITHSTANDING THE PROVISION OF PARAGRAPH B OF
49 SUBDIVISION ELEVEN OF SUCH SECTION, THE STATE SHALL REIMBURSE ONE
50 HUNDRED PERCENT OF THE APPROVED COSTS PAID BY SUCH MUNICIPALITY WHICH
51 SHALL BE OFFSET BY THE LOCAL CONTRIBUTION DUE PURSUANT TO SUBDIVISION
52 FOUR OF THIS SECTION.

53 S 13. Subdivision 4 of section 4410-a of the education law, as
54 amended by chapter 280 of the laws of 1994, is amended to read as
55 follows:

1 4. Local contribution. The municipality of residence shall be finan-
2 cially responsible for the local contribution which shall equal that
3 portion of the approved costs of services to a [foster care or homeless]
4 child WHO IS HOMELESS OR IN OUT-OF-HOME CARE or child in residential
5 care with a handicapping condition which would not be reimbursed pursu-
6 ant to the schedule set out in paragraph b of subdivision eleven of
7 section forty-four hundred ten of this [chapter] ARTICLE. The commis-
8 sioner shall certify to the comptroller the amount of the local contrib-
9 ution owed by each municipality to the state. The comptroller shall
10 deduct the amount of such local contribution first from any moneys due
11 the municipality pursuant to such section and then from any other moneys
12 due or to become due such municipality.

13 S 14. This act shall take effect immediately, provided, however, that
14 the amendments to paragraph a of subdivision 1 of section 3209 of the
15 education law made by section four of this act shall be subject to the
16 expiration and reversion of such paragraph pursuant to section 5 of
17 chapter 101 of the laws of 2003, as amended, when upon such date the
18 provisions of section five of this act shall take effect; and provided
19 further that the amendments to paragraph a-1 of subdivision 1 of section
20 3209 of the education law made by section four of this act shall not
21 affect the expiration and reversion of such paragraph and shall be
22 deemed to expire therewith.