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

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I N S E N A T E

January 26, 2009

Introduced by Sen. OPPENHEIMER -- (at request of the State Education Department) -- read twice and ordered printed, and when printed to be committed to the Committee on Education

AN ACT to amend the education law, in relation to the education of homeless children

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

Section 1. Paragraphs b, c and d of subdivision 1 of section 3209 of the education law, as amended by chapter 569 of the laws of 1994, are amended and a new paragraph f is added to read as follows:

b. 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.

c. 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 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]. 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, AND TO REMAIN IN SUCH SCHOOL FOR THE DURATION OF HOMELESSNESS, EXCEPT WHERE CONTINUING THE CHILD OR YOUTH'S EDUCATION IN THE SCHOOL OF ORIGIN IS DETERMINED BY SUCH SCHOOL DISTRICT NOT TO BE THE BEST INTEREST OF THE CHILD OR YOUTH.

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

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d. 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]. 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 students who live in the same attendance zone in which the homeless child or youth is temporarily residing are entitled to attend.

F. SCHOOL OF ORIGIN. THE TERM "SCHOOL OF ORIGIN" SHALL MEAN: (I) THE PUBLIC SCHOOL THAT THE CHILD OR YOUTH ATTENDED WHEN PERMANENTLY HOUSED AND CIRCUMSTANCES AROSE WHICH CAUSED THE CHILD TO BECOME HOMELESS; OR (II) THE SCHOOL IN WHICH THE CHILD OR YOUTH WAS LAST ENROLLED.

S 2. 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 the homeless child 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] SCHOOL OF ORIGIN IN LIEU OF THE SCHOOL SERVING THE ATTENDANCE ZONE IN WHICH THE TEMPORARY HOUSING ARRANGEMENT IS LOCATED FOR THE DURATION OF HOMELESSNESS, EXCEPT WHERE CONTINUING THE CHILD OR YOUTH'S EDUCATION IN THE SCHOOL OF ORIGIN IS DETERMINED BY SUCH SCHOOL DISTRICT NOT TO BE THE BEST INTEREST OF THE CHILD OR YOUTH.

(2) IF A HOMELESS CHILD BECOMES PERMANENTLY HOUSED DURING A SCHOOL YEAR, SUCH CHILD OR YOUTH MAY REMAIN IN THE SCHOOL OF ORIGIN 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].

[(2)] (3) Notwithstanding any other provision of law to the contrary, where the public school or school district a homeless child was attending on a tuition-free basis or was entitled to attend when circumstances arose which caused the child to become homeless is located outside the state, the homeless child shall be [deemed a resident] ADMITTED TO 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 SUBTITLE B

OF TITLE VII OF THE MCKINNEY-VENTO ASSISTANCE ACT, SHOULD HOMELESS CHILD SHALL BE AFFORDED THE RIGHT TO DESIGNATE A PUBLIC SCHOOL LOCATED IN A CONTIGUOUS STATE AS THE CHILD'S OR YOUTH'S SCHOOL OF ORIGIN, 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 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, shall be entitled to continue the prior designation to enable the student to remain in the [same school building until the end of the school year and for one additional year if that year constitutes the child's terminal year in such building] SCHOOL OR ORIGIN FOR THE DURATION OF HOMELESSNESS, EXCEPT WHERE CONTINUING THE CHILD'S OR YOUTH'S EDUCATION IN THE SCHOOL OF ORIGIN IS DETERMINED NOT TO BE THE BEST INTEREST OF THE CHILD OR YOUTH. IF SUCH CHILD OR YOUTH BECOMES PERMANENTLY HOUSED DURING A SCHOOL YEAR, HE OR SHE SHALL BE ENTITLED TO CONTINUE THE PRIOR DESIGNATION TO ENABLE THE STUDENT TO REMAIN IN THE SCHOOL OF ORIGIN 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 the name of the child, the name of the parent or person in parental relation to the child, the name and location of the temporary housing arrangement, the name of the school OF ORIGIN AND THE SCHOOL district of origin, the name of the school district where the child's records are located, the complete address where the family was located at the time circumstances arose which caused such child to become homeless and any other information required by the commissioner. All school 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 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.

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 A HOMELESS CHILD BY ITS LOCAL EDUCATIONAL AGENCY LIAISON, the [designated] AFFECTED school district shall immediately:

(1) admit the homeless child;

(2) treat the homeless child 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) WHERE APPLICABLE, ASSIST THE HOMELESS CHILD AND THEIR PARENT OR PERSON IN PARENTAL RELATION IN COMPLETING THE DESIGNATION FORM; AND

(5) forward the designation form to the commissioner, and the school district of origin where applicable.

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 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 HOMELESS CHILD 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) A FOSTER HOME, GROUP HOME OR OTHER FAMILY HOME AT BOARD SUBJECT TO THE PROVISIONS OF SUBDIVISION FOUR OF SECTION THIRTY-TWO HUNDRED TWO OF THIS ARTICLE; OR

(2) 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

(3) 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

(4) A FACILITY UNDER THE JURISDICTION OF THE DIVISION FOR YOUTH SUBJECT TO THE PROVISIONS OF SUBDIVISION SIX-A OF SECTION THIRTY-TWO HUNDRED TWO OF THIS ARTICLE; OR

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

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

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

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

(9) 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) HOMELESS CHILDREN HAVE EQUAL ACCESS TO THE SAME PUBLIC PREKINDERGARTEN PROGRAMS, REGULATED BY THE DEPARTMENT, AS ARE PROVIDED TO OTHER CHILDREN RESIDING IN THE SCHOOL DISTRICT;

(2) HOMELESS YOUTHS AND YOUTHS SEPARATED FROM THE PUBLIC SCHOOLS ARE IDENTIFIED AND ACCORDED EQUAL ACCESS TO APPROPRIATE SECONDARY EDUCATION AND SUPPORT SERVICES; AND

(3) HOMELESS CHILDREN AND YOUTHS WHO MEET THE RELEVANT ELIGIBILITY CRITERIA ARE ABLE TO PARTICIPATE IN FEDERAL, STATE, OR LOCAL BEFORE-SCHOOL AND AFTER-SCHOOL CARE 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 HOMELESS CHILD ATTENDING A CHARTER SCHOOL, SHALL ENSURE THAT HOMELESS CHILDREN AND YOUTH 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 OR YOUTH MEETS THE ELIGIBILITY CRITERIA, SUCH AS SERVICES PROVIDED UNDER TITLE I OF THE ELEMEN-

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

a. 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 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.

S 4. Subdivision 4 of section 3209 of the education law is amended by adding a new paragraph f to read as follows:

F. WHERE A HOMELESS CHILD ATTENDS A SUMMER EDUCATIONAL PROGRAM IN SUCH STUDENT'S DESIGNATED SCHOOL DISTRICT PURSUANT TO PARAGRAPH A OF SUBDIVISION TWO OF THIS SECTION THAT IS NEEDED FOR SUCH HOMELESS 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 STUDENT'S TEMPORARY HOUSING ARRANGEMENT IS OUTSIDE OF SUCH DESIGNATED SCHOOL DISTRICT, SUCH HOMELESS CHILD SHALL BE ENTITLED TO TRANSPORTATION PURSUANT TO THE APPLICABLE PROVISIONS OF PARAGRAPH A, B OR C OF THIS SUBDIVISION.

S 5. This act shall take effect on the first of September next succeeding the date upon which it shall have become a law.