

1088

2009-2010 Regular Sessions

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:

1 Section 1. Paragraphs b, c and d of subdivision 1 of section 3209 of
2 the education law, as amended by chapter 569 of the laws of 1994, are
3 amended and a new paragraph f is added to read as follows:
4 b. Designator. The term "designator" shall mean:
5 (1) the parent or the person in parental relation to a homeless child;
6 or
7 (2) the homeless child, if [no parent or person in parental relation
8 is available] SUCH HOMELESS CHILD IS AN UNACCOMPANIED YOUTH; or
9 (3) the director of a residential program for runaway and homeless
10 youth established pursuant to article nineteen-H of the executive law,
11 in consultation with the homeless child, where such homeless child is
12 living in such program.
13 c. School district of origin. The term "school district of origin"
14 shall mean the school district within the state of New York in which the
15 homeless child was attending a public school on a tuition-free basis or
16 was entitled to attend when circumstances arose which caused such child
17 to become homeless[, which is different from the school district of
18 current location]. Whenever the school district of origin is designated
19 pursuant to subdivision two of this section, the child shall be entitled
20 to return to the school [building where previously enrolled] OF ORIGIN,
21 AND TO REMAIN IN SUCH SCHOOL FOR THE DURATION OF HOMELESSNESS, EXCEPT
22 WHERE CONTINUING THE CHILD OR YOUTH'S EDUCATION IN THE SCHOOL OF ORIGIN
23 IS DETERMINED BY SUCH SCHOOL DISTRICT NOT TO BE THE BEST INTEREST OF THE
24 CHILD OR YOUTH.

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

LBD051113-01-9

1 d. School district of current location. The term "school district of
2 current location" shall mean the public school district within the state
3 of New York in which the hotel, motel, shelter or other temporary hous-
4 ing arrangement of a homeless child, or the residential program for
5 runaway and homeless youth, is located[, which is different from the
6 school district of origin]. Whenever the school district of current
7 location is designated pursuant to subdivision two of this section, the
8 child shall be entitled to attend the school that is zoned for his or
9 her temporary location or any school that nonhomeless students who live
10 in the same attendance zone in which the homeless child or youth is
11 temporarily residing are entitled to attend.

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

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

18 2. Choice of SCHOOL AND district OF ATTENDANCE.

19 a. The designator shall have the right to designate THE SCHOOL OF
20 ORIGIN OR THE SCHOOL SERVING THE ATTENDANCE ZONE IN WHICH THE TEMPORARY
21 HOUSING ARRANGEMENT IS LOCATED AND one of the following SCHOOL DISTRICTS
22 as the school AND SCHOOL district [within] which the homeless child
23 shall be entitled to attend upon instruction:

24 (1) the school district of current location;

25 (2) the school district of origin; or

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

27 b. (1) Notwithstanding any other provision of law to the contrary,
28 where the public school district in which a homeless child is temporar-
29 ily housed is the same school district the child was attending on a
30 tuition-free basis or was entitled to attend when circumstances arose
31 which caused the child to become homeless, the homeless child shall be
32 entitled to attend the schools of such district without the payment of
33 tuition in accordance with subdivision one of section thirty-two hundred
34 two of this article. Such child may choose to remain in the [public
35 school building they previously attended] SCHOOL OF ORIGIN IN LIEU OF
36 THE SCHOOL SERVING THE ATTENDANCE ZONE IN WHICH THE TEMPORARY HOUSING
37 ARRANGEMENT IS LOCATED FOR THE DURATION OF HOMELESSNESS, EXCEPT WHERE
38 CONTINUING THE CHILD OR YOUTH'S EDUCATION IN THE SCHOOL OF ORIGIN IS
39 DETERMINED BY SUCH SCHOOL DISTRICT NOT TO BE THE BEST INTEREST OF THE
40 CHILD OR YOUTH.

41 (2) IF A HOMELESS CHILD BECOMES PERMANENTLY HOUSED DURING A SCHOOL
42 YEAR, SUCH CHILD OR YOUTH MAY REMAIN IN THE SCHOOL OF ORIGIN until the
43 end of the school year and for one additional year if that year consti-
44 tutes the child's terminal year in such building [in lieu of the school
45 serving the attendance zone in which the temporary housing facility is
46 located].

47 [(2)] (3) Notwithstanding any other provision of law to the contrary,
48 where the public school or school district a homeless child was attend-
49 ing on a tuition-free basis or was entitled to attend when circumstances
50 arose which caused the child to become homeless is located outside the
51 state, the homeless child shall be [deemed a resident] ADMITTED TO THE
52 SCHOOLS of the school district in which the hotel, motel, shelter or
53 other temporary housing arrangement of the child is currently located
54 and shall be entitled to attend the schools of such district without
55 payment of tuition in accordance with subdivision one of section thir-
56 ty-two hundred two of this article. TO THE EXTENT REQUIRED SUBTITLE B

1 OF TITLE VII OF THE MCKINNEY-VENTO ASSISTANCE ACT, SUCH HOMELESS CHILD
2 SHALL BE AFFORDED THE RIGHT TO DESIGNATE A PUBLIC SCHOOL LOCATED IN A
3 CONTIGUOUS STATE AS THE CHILD'S OR YOUTH'S SCHOOL OF ORIGIN, AND THE
4 SCHOOL DISTRICT OF CURRENT LOCATION SHALL ARRANGE FOR THE TRANSPORTATION
5 OF SUCH CHILD TO THE SCHOOL OF ORIGIN IN ACCORDANCE WITH THE PROVISIONS
6 OF SUCH FEDERAL LAW. Such OUT-OF-STATE SCHOOL district [of residence]
7 shall not be considered a school district of origin or a school district
8 of current location for purposes of this section.

9 c. Notwithstanding the provisions of paragraph a of this subdivision,
10 a homeless child who has designated the school district of current
11 location as the district of attendance and who has relocated to another
12 temporary housing arrangement outside of such district, or to a differ-
13 ent attendance zone or community school district within such district,
14 shall be entitled to continue the prior designation to enable the
15 student to remain in the [same school building until the end of the
16 school year and for one additional year if that year constitutes the
17 child's terminal year in such building] SCHOOL OR ORIGIN FOR THE DURA-
18 TION OF HOMELESSNESS, EXCEPT WHERE CONTINUING THE CHILD'S OR YOUTH'S
19 EDUCATION IN THE SCHOOL OF ORIGIN IS DETERMINED NOT TO BE THE BEST
20 INTEREST OF THE CHILD OR YOUTH. IF SUCH CHILD OR YOUTH BECOMES PERMA-
21 NENTLY HOUSED DURING A SCHOOL YEAR, HE OR SHE SHALL BE ENTITLED TO
22 CONTINUE THE PRIOR DESIGNATION TO ENABLE THE STUDENT TO REMAIN IN THE
23 SCHOOL OF ORIGIN UNTIL THE END OF THE SCHOOL YEAR AND FOR ONE ADDITIONAL
24 YEAR IF THAT YEAR CONSTITUTES THE CHILD'S TERMINAL YEAR IN SUCH
25 BUILDING.

26 d. Such designation shall be made on forms specified by the commis-
27 sioner, and shall include the name of the child, the name of the parent
28 or person in parental relation to the child, the name and location of
29 the temporary housing arrangement, the name of the school OF ORIGIN AND
30 THE SCHOOL district of origin, the name of the school district where the
31 child's records are located, the complete address where the family was
32 located at the time circumstances arose which caused such child to
33 become homeless and any other information required by the commissioner.
34 All school districts, temporary housing facilities operated or approved
35 by a local social services district, and residential facilities for
36 runaway and homeless youth shall make such forms available. Where the
37 homeless child is located in a temporary housing facility operated or
38 approved by a local social services district, or a residential facility
39 for runaway and homeless youth, the director of the facility or a person
40 designated by the social services district, shall, within two business
41 days, assist the designator in completing the designation forms and
42 enrolling the homeless child in the designated school district.

43 e. Upon [receipt of the designation form] SELECTION OF A SCHOOL OR
44 SCHOOL DISTRICT OF ATTENDANCE BY A DESIGNATOR OR IDENTIFICATION OF A
45 STUDENT AS A HOMELESS CHILD BY ITS LOCAL EDUCATIONAL AGENCY LIAISON, the
46 [designated] AFFECTED school district shall immediately:

47 (1) admit the homeless child;
48 (2) treat the homeless child as a resident for all purposes;
49 (3) WHERE APPLICABLE, make a written request to the school district
50 where the child's records are located for a copy of such records; [and]
51 (4) WHERE APPLICABLE, ASSIST THE HOMELESS CHILD AND THEIR PARENT OR
52 PERSON IN PARENTAL RELATION IN COMPLETING THE DESIGNATION FORM; AND
53 (5) forward the designation form to the commissioner, and the school
54 district of origin where applicable.

55 f. Within five days of receipt of a request for records pursuant to
56 subparagraph three of paragraph e of this subdivision, the school

1 district shall forward, in a manner consistent with state and federal
2 law, a complete copy of the homeless child's records including, but not
3 limited to, proof of age, academic records, evaluations, immunization
4 records, and guardianship papers, if applicable.

5 g. WHERE THE SCHOOL OF ORIGIN IS A CHARTER SCHOOL, THE SCHOOL DISTRICT
6 DESIGNATED PURSUANT TO SUBDIVISION TWO OF THIS SECTION SHALL BE DEEMED
7 TO BE THE SCHOOL DISTRICT OF RESIDENCE OF SUCH CHILD FOR PURPOSES OF
8 FISCAL AND PROGRAMMATIC RESPONSIBILITY UNDER ARTICLE FIFTY-SIX OF THIS
9 CHAPTER. WHERE A HOMELESS CHILD BECOMES PERMANENTLY HOUSED BY REASON OF
10 PLACEMENT IN ONE OF THE FOLLOWING RESIDENTIAL SETTINGS, THE SCHOOL
11 DISTRICT OF ORIGIN SHALL BE DEEMED TO BE THE STUDENT'S SCHOOL DISTRICT
12 OF RESIDENCE FOR PURPOSES OF ASSIGNING FISCAL AND/OR PROGRAMMATIC
13 RESPONSIBILITY UNDER ANY RELATED PROVISION OF LAW:

14 (1) A FOSTER HOME, GROUP HOME OR OTHER FAMILY HOME AT BOARD SUBJECT TO
15 THE PROVISIONS OF SUBDIVISION FOUR OF SECTION THIRTY-TWO HUNDRED TWO OF
16 THIS ARTICLE; OR

17 (2) AN INTERMEDIATE CARE FACILITY, INDIVIDUALIZED RESIDENTIAL ALTERNA-
18 TIVE OR OTHER SCHOOL OR FACILITY SUBJECT TO THE PROVISIONS OF SUBDIVI-
19 SION FIVE OF SECTION THIRTY-TWO HUNDRED TWO OF THIS ARTICLE; OR

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

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

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

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

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

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

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

37 h. EACH DESIGNATED SCHOOL DISTRICT OF ATTENDANCE SHALL ENSURE THAT:

38 (1) HOMELESS CHILDREN HAVE EQUAL ACCESS TO THE SAME PUBLIC PREKINDER-
39 GARTEN PROGRAMS, REGULATED BY THE DEPARTMENT, AS ARE PROVIDED TO OTHER
40 CHILDREN RESIDING IN THE SCHOOL DISTRICT;

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

44 (3) HOMELESS CHILDREN AND YOUTHS WHO MEET THE RELEVANT ELIGIBILITY
45 CRITERIA ARE ABLE TO PARTICIPATE IN FEDERAL, STATE, OR LOCAL
46 BEFORE-SCHOOL AND AFTER-SCHOOL CARE PROGRAMS, INCLUDING BUT NOT LIMITED
47 TO EXTRACURRICULAR ACTIVITIES.

48 i. EACH DESIGNATED SCHOOL DISTRICT OF ATTENDANCE, OR THE CHARTER
49 SCHOOL TO THE EXTENT CONSISTENT WITH ARTICLE FIFTY-SIX OF THIS CHAPTER
50 IN THE CASE OF A HOMELESS CHILD ATTENDING A CHARTER SCHOOL, SHALL ENSURE
51 THAT HOMELESS CHILDREN AND YOUTH ARE PROVIDED, AT A MINIMUM, SERVICES
52 COMPARABLE TO SERVICES OFFERED TO OTHER STUDENTS IN THE PUBLIC SCHOOL
53 THEY ATTEND, INCLUDING, BUT NOT LIMITED TO, THE FOLLOWING:

54 (1) TRANSPORTATION SERVICES;

55 (2) EDUCATIONAL SERVICES FOR WHICH THE CHILD OR YOUTH MEETS THE ELIGI-
56 BILITY CRITERIA, SUCH AS SERVICES PROVIDED UNDER TITLE I OF THE ELEMEN-

1 TARY AND SECONDARY EDUCATION ACT OF 1965 (20 U.S.C. S6301 ET SEQ.) OR
2 SIMILAR STATE OR LOCAL PROGRAMS, EDUCATIONAL PROGRAMS FOR CHILDREN WITH
3 DISABILITIES, EDUCATIONAL PROGRAMS FOR STUDENTS WITH LIMITED ENGLISH
4 PROFICIENCY AND SUMMER SCHOOL;

5 (3) PROGRAMS IN VOCATIONAL AND TECHNICAL EDUCATION;

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

7 (5) SCHOOL NUTRITION PROGRAMS.

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

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

15 a. Where either the school district of current location or a school
16 district participating in a regional placement plan is designated as the
17 district in which the homeless child shall attend upon instruction and
18 such homeless child's school district of origin is within New York state
19 AND IS DIFFERENT FROM THE SCHOOL DISTRICT OF CURRENT LOCATION, the
20 school district providing instruction shall be eligible for reimburse-
21 ment by the department, as approved by the commissioner, for the direct
22 cost of educational services, not otherwise reimbursed under special
23 federal programs, calculated pursuant to regulations of the commissioner
24 for the period of time for which such services are provided. The claim
25 for such reimbursement shall be in a form prescribed by the commission-
26 er. The educational costs for such children shall not be otherwise aida-
27 ble or reimbursable.

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

30 F. WHERE A HOMELESS CHILD ATTENDS A SUMMER EDUCATIONAL PROGRAM IN SUCH
31 STUDENT'S DESIGNATED SCHOOL DISTRICT PURSUANT TO PARAGRAPH A OF SUBDIVI-
32 SION TWO OF THIS SECTION THAT IS NEEDED FOR SUCH HOMELESS CHILD TO
33 ADVANCE TO THE NEXT GRADE OR TO COMPLETE A HIGH SCHOOL DIPLOMA WITH HIS
34 OR HER PEERS OF THE SAME AGE AND THE STUDENT'S TEMPORARY HOUSING
35 ARRANGEMENT IS OUTSIDE OF SUCH DESIGNATED SCHOOL DISTRICT, SUCH HOMELESS
36 CHILD SHALL BE ENTITLED TO TRANSPORTATION PURSUANT TO THE APPLICABLE
37 PROVISIONS OF PARAGRAPH A, B OR C OF THIS SUBDIVISION.

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