

6216

2009-2010 Regular Sessions

I N   S E N A T E

October 14, 2009

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

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

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

1     Section 1. Subdivision 1 of section 3602-c of the education law is  
2     amended by adding a new paragraph g to read as follows:  
3     G. "TWICE-EXCEPTIONAL" SHALL MEAN THOSE PUPILS WHO HAVE DISABILITIES  
4     AND SHOW EVIDENCE OF HIGH COGNITIVE PROCESSING CAPABILITIES IN WAYS  
5     OTHER THAN ASSUMED BY CONVENTIONAL METHODS, GENERAL EDUCATION OR HIGH  
6     PERFORMANCE CAPABILITY AND EXCEPTIONAL POTENTIAL IN AREAS SUCH AS GENER-  
7     AL INTELLECTUAL ABILITY, SPECIAL ACADEMIC APTITUDE AND OUTSTANDING ABIL-  
8     ITY IN VISUAL AND PERFORMING ARTS. SUCH TERM SHALL INCLUDE THOSE PUPILS  
9     WHO REQUIRE EDUCATIONAL PROGRAMS OR SERVICES BEYOND THOSE NORMALLY  
10    PROVIDED BY THE REGULAR SCHOOL PROGRAM IN ORDER TO REALIZE THEIR FULL  
11    POTENTIAL.  
12    S 2. Paragraph a of subdivision 1 of section 3602-c of the education  
13    law, as amended by chapter 474 of the laws of 2004, is amended to read  
14    as follows:  
15    a. "Services" shall mean instruction in the areas of gifted pupils,  
16    TWICE-EXCEPTIONAL PUPILS, career education and education for students  
17    with disabilities, and counseling, psychological and social work  
18    services related to such instruction provided during the regular school  
19    year for pupils enrolled in a nonpublic school located in a school  
20    district, provided that such instruction is given to pupils enrolled in  
21    the public schools of such district.  
22    S 3. Section 4451 of the education law, as added by chapter 740 of the  
23    laws of 1982, is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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