

4430

2011-2012 Regular Sessions

I N A S S E M B L Y

February 3, 2011

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

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

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND 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.

LBD02380-02-1

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

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

10 (E) "CHILD IN OUT-OF-HOME CARE", FOR PURPOSES OF AN EDUCATION STABILI-
11 TY DETERMINATION, SHALL MEAN A CHILD WHO IS ENTITLED TO ATTEND SCHOOL
12 PURSUANT TO SECTION THIRTY-TWO HUNDRED TWO OF THE EDUCATION LAW, A CHILD
13 ELIGIBLE FOR UNIVERSAL PRE-KINDERGARTEN, OR A CHILD ELIGIBLE FOR COMMIT-
14 TEE ON PRESCHOOL SPECIAL EDUCATION SERVICES WHO:

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

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

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

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

27 3. UPON REMOVAL OF A CHILD FROM HOME AND PLACEMENT IN OUT-OF-HOME CARE
28 BUT PRIOR TO A DETERMINATION OF THE BEST INTERESTS OF THE CHILD REGARD-
29 ING SCHOOL PLACEMENT, THE CHILD SHALL REMAIN IN HIS OR HER SCHOOL OF
30 ORIGIN UNLESS CONTINUING AT THE SCHOOL OF ORIGIN WOULD CREATE AN IMMI-
31 NENT RISK TO THE LIFE OR HEALTH OF THE CHILD. THE CHILD SHALL REMAIN IN
32 HIS OR HER SCHOOL OF ORIGIN UNLESS THE LOCAL SOCIAL SERVICES DISTRICT,
33 THE BIRTH OR ADOPTIVE PARENT OF THE CHILD, AND THE ATTORNEY FOR THE
34 CHILD, AFTER CONSULTATION WITH THE CHILD, CONSENT TO A CHANGE IN SCHOOL
35 PLACEMENT, OR THE COURT MAKES A DETERMINATION THAT IT WOULD BE IN THE
36 BEST INTERESTS OF THE CHILD TO CHANGE SCHOOLS.

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

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

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

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

55 (III) MAKE A WRITTEN REQUEST TO THE SCHOOL DISTRICT WHERE THE CHILD'S
56 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 SEVEN 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 INSTRUC-
37 TIONAL 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 THE SOCIAL SERVICES LAW AS TO WHETHER IT IS
44 IN THE BEST INTERESTS OF THE CHILD TO REMAIN IN HIS OR HER SCHOOL OF
45 ORIGIN, IF THE PARTIES HAVE NOT OTHERWISE AGREED TO THE APPROPRIATE
46 SCHOOL PLACEMENT OF THE CHILD.

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

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

1 TO SECTION THREE HUNDRED SEVENTY-THREE-B OF THE SOCIAL SERVICES LAW
2 REGARDING WHETHER IT IS IN THE BEST INTERESTS OF THE CHILD TO REMAIN IN
3 HIS OR HER SCHOOL OF ORIGIN.

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

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

17 S 5. Paragraphs 2 and 5 of subdivision (c) of section 1089 of the
18 family court act, as added by section 27 of part A of chapter 3 of the
19 laws of 2005, subparagraph (viii) of paragraph 5 as amended by section
20 10 of part B of chapter 327 of the laws of 2007, are amended to read as
21 follows:

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

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

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

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

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

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

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

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

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

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

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

13 (5) the recommended permanency plan including:

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

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

19 (iii) any proposed changes in the child's current placement, trial
20 discharge or discharge that may occur before the next permanency hear-
21 ing;

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

30 (v) whether any modification to the visitation plan or plans is recom-
31 mended and the reasons therefor;

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

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

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

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

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

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

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

51 S 6. Subparagraph (v) of paragraph 2 of subdivision (d) of section
52 1089 of the family court act, as added by section 27 of part A of chap-
53 ter 3 of the laws of 2005, is amended to read as follows:

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

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

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

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

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

14 1. Definitions.

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

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

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

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

23 (iii) abandoned in hospitals;

24 (iv) awaiting foster care placement; or

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

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

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

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

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

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

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

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

1 (2) HAS BEEN DIRECTLY PLACED WITH A RELATIVE PURSUANT TO ARTICLE TEN
2 OR TEN-A OF THE FAMILY COURT ACT; AND
3 CHILD IN OUT-OF-HOME CARE DOES NOT INCLUDE A CHILD IN NON-SECURE OR
4 SECURE DETENTION FACILITIES.

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

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

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

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

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

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

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

48 [e] F. Regional placement plan. The term "regional placement plan"
49 shall mean a comprehensive regional approach to the provision of educa-
50 tional placements for homeless children which has been approved by the
51 commissioner.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

40 2. Choice of SCHOOL AND district OF ATTENDANCE.

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

47 (1) the school district of current location;

48 (2) the school district of origin; or

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

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

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

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

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

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

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

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

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

49 (2) MAY DESIGNATE A NEW SCHOOL AND SCHOOL DISTRICT PURSUANT TO PARA-
50 GRAPH A OF THIS SUBDIVISION.

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

55 d. Such designation shall be made on forms specified by the commis-
56 sioner, and shall include:

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

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

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

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

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

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

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

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

1 of age, academic records, evaluations, immunization records, and guardi-
2 anship papers, if applicable.

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

13 (1) AN INTERMEDIATE CARE FACILITY, INDIVIDUALIZED RESIDENTIAL ALTERNA-
14 TIVE OR OTHER SCHOOL OR FACILITY SUBJECT TO THE PROVISIONS OF SUBDIVI-
15 SION FIVE OF SECTION THIRTY-TWO HUNDRED TWO OF THIS ARTICLE; OR

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 (1) TRANSPORTATION SERVICES;

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

17 (3) PROGRAMS IN VOCATIONAL AND TECHNICAL EDUCATION;

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

19 (5) SCHOOL NUTRITION PROGRAMS.

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

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

27 3. Reimbursement.

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

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

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

3 4. Transportation.

4 a. A LOCAL social services district shall provide for the transporta-
5 tion of each homeless child who is eligible for benefits pursuant to
6 section three hundred fifty-j of the social services law, to and from a
7 temporary housing location in which the child was placed by the LOCAL
8 social services district and the school attended by such child pursuant
9 to this section, if such temporary housing facility is located outside
10 of the designated school district pursuant to paragraph a of subdivision
11 two of this section. A LOCAL social services district shall be author-
12 ized to contract with a board of education or a board of cooperative
13 educational services for the provision of such transportation. This
14 paragraph shall apply to placements made by a LOCAL social services
15 district without regard to whether a payment is made by the district to
16 the operator of the temporary housing facility.

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

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

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

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

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

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

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

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

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

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

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

3 7. DISPUTE RESOLUTION.

4 A. EACH DISTRICT SHALL:

5 (1) ESTABLISH PROCEDURES, IN ACCORDANCE WITH 42 U.S.C. SECTION
6 11432(G)(3)(E), FOR THE PROMPT RESOLUTION OF DISPUTES REGARDING, BUT NOT
7 LIMITED TO, SCHOOL SELECTION, ENROLLMENT, TRANSPORTATION, A CHILD'S
8 STATUS AS A HOMELESS CHILD OR UNACCOMPANIED YOUTH AS DEFINED IN THE
9 REGULATIONS OF THE COMMISSIONER, A CHILD'S STATUS AS A CHILD IN OUT-OF-
10 HOME CARE; AND

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 h. "Child in residential care" shall mean a child residing in a facil-
15 ity licensed or operated by another state agency as defined by section
16 1.03 of the mental hygiene law or by section two of the public health
17 law.

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

20 2. School district evaluation and placement responsibility.

21 A. The school district of current location of a [foster care or home-
22 less child or] child in residential care shall be responsible for the
23 evaluation and placement procedures prescribed for a preschool child
24 suspected of having OR WITH a handicapping condition pursuant to section
25 forty-four hundred ten of this [chapter] ARTICLE. In issuing its writ-
26 ten notice of determination of services, the board of education of such
27 school district shall identify the municipality of residence of a
28 preschool child with a handicapping condition who is a [foster care or
29 homeless child or] child in residential care. Such notice of determi-
30 nation shall be transmitted to both the municipality of residence and
31 the municipality of current location.

32 B. THE SCHOOL DISTRICT DESIGNATED PURSUANT TO PARAGRAPH A OF SUBDIVI-
33 SION TWO OF SECTION THIRTY-TWO HUNDRED NINE OF THIS CHAPTER SHALL BE
34 RESPONSIBLE FOR THE EVALUATION AND PLACEMENT PROCEDURES PRESCRIBED FOR A
35 PRESCHOOL CHILD SUSPECTED OF HAVING OR WITH A DISABILITY WHO IS HOMELESS
36 OR IN OUT-OF-HOME CARE. IN ISSUING ITS WRITTEN NOTICE OF DETERMINATION
37 OF SERVICES, THE BOARD OF EDUCATION OF SUCH SCHOOL DISTRICT SHALL IDEN-
38 TIFY THE MUNICIPALITY OF RESIDENCE OF A PRESCHOOL CHILD WITH A DISABILI-
39 TY WHO IS HOMELESS OR IN OUT-OF-HOME CARE. SUCH NOTICE OF DETERMINATION
40 SHALL BE TRANSMITTED TO BOTH THE MUNICIPALITY OF RESIDENCE AND THE MUNI-
41 CIPALITY OF RECORD, AS DEFINED IN SUBDIVISION THREE OF THIS SECTION.

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

44 3. Contract and payment responsibility.

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

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

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

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

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

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