

5510--A

Cal. No. 638

2011-2012 Regular Sessions

I N   S E N A T E

May 26, 2011

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Introduced by Sen. FLANAGAN -- read twice and ordered printed, and when printed to be committed to the Committee on Education -- recommitted to the Committee on Education in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the education law, in relation to the additional parent member of committees on special education

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

1     Section 1. Clause (b) of subparagraph 1 of paragraph b of subdivision  
2     1 of section 4402 of the education law, as amended by chapter 378 of the  
3     laws of 2007, is amended to read as follows:  
4     (b) In determining the composition of such committee pursuant to  
5     clause (a) of this subparagraph, a school district may determine that a  
6     member appointed pursuant to one of subclause (ii), (iii), (iv), (v) or  
7     (ix) of clause (a) of this subparagraph also fulfills the requirement of  
8     subclause (vi) of clause (a) of this subparagraph of a member who is an  
9     individual who can interpret the instructional implications of evaluation  
10    results where such individuals are determined by the school  
11    district to have the knowledge and expertise to do so and/or that a  
12    member appointed pursuant to subclause (iii) or (iv) of clause (a) of  
13    this subparagraph also fulfills the requirement of subclause (v) of  
14    clause (a) of this subparagraph of a member who is a representative of  
15    the school district. The regular education teacher of the student shall  
16    participate in the development, review and revision of the individual-  
17    ized education program for the student, to the extent required under  
18    federal law. The school physician need not be in attendance at any meet-  
19    ing of the committee on special education unless specifically requested  
20    in writing, at least seventy-two hours prior to such meeting by the  
21    parents or other person in parental relation to the student in question,

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

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1 the student, or a member of the committee on special education. The  
2 parents or persons in parental relation of the student in question shall  
3 receive proper written notice of their right to have the school physi-  
4 cian attend the meetings of the committee on special education upon  
5 referral of said student to the committee on special education or when-  
6 ever such committee plans to modify or change the identification, evalu-  
7 ation or educational placement of the student [and their right to  
8 request that an additional parent member not participate at any meeting  
9 of the committee regarding the student]. THE ADDITIONAL PARENT NEED NOT  
10 BE IN ATTENDANCE AT ANY MEETING OF THE COMMITTEE ON SPECIAL EDUCATION  
11 UNLESS SPECIFICALLY REQUESTED IN WRITING, AT LEAST SEVENTY-TWO HOURS  
12 PRIOR TO SUCH MEETING BY THE PARENTS OR OTHER PERSON IN PARENTAL  
13 RELATION TO THE STUDENT IN QUESTION, THE STUDENT, OR A MEMBER OF THE  
14 COMMITTEE ON SPECIAL EDUCATION. THE PARENTS OR PERSONS IN PARENTAL  
15 RELATION OF THE STUDENT IN QUESTION SHALL RECEIVE PROPER WRITTEN NOTICE  
16 OF THEIR RIGHT TO HAVE AN ADDITIONAL PARENT ATTEND ANY MEETING OF THE  
17 COMMITTEE REGARDING THE STUDENT ALONG WITH A STATEMENT, PREPARED BY THE  
18 DEPARTMENT, EXPLAINING THE ROLE OF HAVING THE ADDITIONAL PARENT ATTEND  
19 THE MEETING. The committee shall invite the appropriate professionals  
20 most familiar with a student's disability or disabilities to attend any  
21 meeting concerning the educational program for such student. Except as  
22 otherwise provided in this clause or clause (b-1) or (b-2) of this  
23 subparagraph, all members of such committee shall attend meetings of the  
24 committee on special education.

25 S 2. Clause (b) of subparagraph 1 of paragraph b of subdivision 1 of  
26 section 4402 of the education law, as amended by chapter 311 of the laws  
27 of 1999, is amended to read as follows:

28 (b) In determining the composition of such committee pursuant to  
29 clause (a) of this subparagraph, a school district may determine that a  
30 member appointed pursuant to one of subclause (ii), (iii), (iv), (v) or  
31 (ix) of clause (a) of this subparagraph also fulfills the requirement of  
32 subclause (vi) of clause (a) of this subparagraph of a member who is an  
33 individual who can interpret the instructional implications of evalu-  
34 ation results where such individuals are determined by the school  
35 district to have the knowledge and expertise to do so and/or that a  
36 member appointed pursuant to subclause (iii) or (iv) of clause (a) of  
37 this subparagraph also fulfills the requirement of subclause (v) of  
38 clause (a) of this subparagraph of a member who is a representative of  
39 the school district. The regular education teacher of the student shall  
40 participate in the development, review and revision of the individual-  
41 ized education program for the student, to the extent required under  
42 federal law. The school physician need not be in attendance at any meet-  
43 ing of the committee on special education unless specifically requested  
44 in writing, at least seventy-two hours prior to such meeting by the  
45 parents or other person in parental relationship to the student in ques-  
46 tion, the student, or a member of the committee on special education.  
47 The parents or persons in parental relationship of the student in ques-  
48 tion shall receive proper written notice of their right to have the  
49 school physician attend the meetings of the committee on special educa-  
50 tion upon referral of said student to the committee on special education  
51 or whenever such committee plans to modify or change the identification,  
52 evaluation or educational placement of the student [and their right to  
53 request that an additional parent member not participate at any meeting  
54 of the committee regarding the student]. THE ADDITIONAL PARENT NEED NOT  
55 BE IN ATTENDANCE AT ANY MEETING OF THE COMMITTEE ON SPECIAL EDUCATION  
56 UNLESS SPECIFICALLY REQUESTED IN WRITING, AT LEAST SEVENTY-TWO HOURS

1 PRIOR TO SUCH MEETING BY THE PARENTS OR OTHER PERSON IN PARENTAL  
2 RELATION TO THE STUDENT IN QUESTION, THE STUDENT, OR A MEMBER OF THE  
3 COMMITTEE ON SPECIAL EDUCATION. THE PARENTS OR PERSONS IN PARENTAL  
4 RELATION OF THE STUDENT IN QUESTION SHALL RECEIVE PROPER WRITTEN NOTICE  
5 OF THEIR RIGHT TO HAVE AN ADDITIONAL PARENT ATTEND ANY MEETING OF THE  
6 COMMITTEE REGARDING THE STUDENT ALONG WITH A STATEMENT, PREPARED BY THE  
7 DEPARTMENT, EXPLAINING THE ROLE OF HAVING THE ADDITIONAL PARENT ATTEND  
8 THE MEETING. The committee shall invite the appropriate professionals  
9 most familiar with a student's disability or disabilities to attend any  
10 meeting concerning the educational program for such student. Members of  
11 such committee shall serve at the pleasure of such board and members who  
12 are neither employees of nor under contract with such district shall  
13 serve without compensation except that such members shall be entitled to  
14 a per diem to defray expenses incurred in such service, provided, howev-  
15 er, that any expense incurred shall be deemed an aidable operating  
16 expense for purposes of state aid.

17 S 3. This act shall take effect immediately; provided, however, that  
18 the amendments to clause (b) of subparagraph 1 of paragraph b of subdi-  
19 vision 1 of section 4402 of the education law made by section one of  
20 this act shall be subject to the expiration and reversion of such clause  
21 pursuant to subdivision d of section 27 of chapter 378 of the laws of  
22 2007, as amended, when upon such date the provisions of section two of  
23 this act shall take effect.