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

4244

2011-2012 Regular Sessions

I N A S S E M B L Y

February 2, 2011

Introduced by M. of A. CORWIN, AUBRY, HAWLEY, MONTESANO, JAFFEE, WEISENBERG -- Multi-Sponsored by -- M. of A. M. MILLER, N. RIVERA, STEVENSON, THIELE -- read once and referred to the Committee on Education

AN ACT to amend the education law, in relation to adding a member of the school athletics department or physical education department onto the committee on special education, and requiring such committee to determine the level of participation in school athletic programs permitted for a student with a handicapping condition

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

Section 1. Subdivision 4 of section 4401-a of the education law, as amended by chapter 378 of the laws of 2007, is amended to read as follows:

4. The individual evaluation of the educational needs of a student referred to the committee on special education shall be conducted by qualified individuals AND SHALL INCLUDE AN ASSESSMENT OF SUCH STUDENT'S ABILITY TO PARTICIPATE IN SCHOOL ATHLETIC PROGRAMS AND/OR ACTIVITIES SUCH AS PHYSICAL EDUCATION CLASSES OR COMPETITIVE OR NON-COMPETITIVE SPORTS, in accordance with regulations of the commissioner, with the results of such evaluation forwarded to the committee on special education and the student's parent or person in parental relation. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, NO ELIGIBILITY REQUIREMENTS SHALL PRECLUDE A STUDENT'S PARTICIPATION IN SCHOOL ATHLETIC PROGRAMS AND/OR ACTIVITIES IF SUCH COMMITTEE DETERMINES THAT SUCH PARTICIPATION IS PERMISSIBLE.

S 2. Subdivision 4 of section 4401-a of the education law, as amended by chapter 273 of the laws of 1986, is amended to read as follows:

4. The individual evaluation of the educational needs of a pupil referred to the committee on special education shall be conducted by qualified individuals AND SHALL INCLUDE AN ASSESSMENT OF SUCH PUPIL'S ABILITY TO PARTICIPATE IN SCHOOL ATHLETIC PROGRAMS AND/OR ACTIVITIES SUCH AS PHYSICAL EDUCATION CLASSES OR COMPETITIVE OR NON-COMPETITIVE SPORTS, in accordance with regulations of the commissioner, with the results of such evaluation forwarded to the committee on special educa-

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

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tion and the pupil's parent or person in parental relationship. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, NO ELIGIBILITY REQUIREMENTS SHALL PRECLUDE A STUDENT'S PARTICIPATION IN SCHOOL ATHLETIC PROGRAMS AND/OR ACTIVITIES IF SUCH COMMITTEE DETERMINES THAT SUCH PARTICIPATION IS PERMISSIBLE.

S 3. Clause (a) of subparagraph 1 of paragraph b of subdivision 1 of section 4402 of the education law, as amended by chapter 311 of the laws of 1999 and subclause (viii) as amended by chapter 194 of the laws of 2004, is amended to read as follows:

(a) Such committees shall be composed of at least the following members: (i) the parents or persons in parental relationship to the student; (ii) one regular education teacher of the student whenever the student is or may be participating in the regular education environment; (iii) one special education teacher of the student, or, if appropriate, a special education provider of the student; (iv) a school psychologist; (v) a representative of such school district who is qualified to provide or administer or supervise special education and is knowledgeable about the general curriculum and the availability of resources of the school district; (vi) an individual who can interpret the instructional implications of evaluation results; (vii) a school physician; (viii) an additional parent, residing in the school district or a neighboring school district, of a student with a disability, of a student who has been declassified and is no longer eligible for an individualized education program (IEP), or a parent of a disabled child who has graduated, for a period of five years beyond the student's declassification or graduation, provided such parent shall not be employed by or under contract with the school district, and provided further that such additional parent shall not be a required member if the parents request that such additional parent member not participate; (ix) such other persons having knowledge or special expertise regarding the student as the school district or the parents or persons in parental relationship to the student shall designate, to the extent required under federal law; [and] (x) A MEMBER OF THE SCHOOL ATHLETIC DEPARTMENT OR PHYSICAL EDUCATION DEPARTMENT; AND (XI) if appropriate, the student.

S 4. Subparagraph 3 of paragraph b of subdivision 1 of section 4402 of the education law is amended by adding a new clause (m) to read as follows:

(M) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE COMMITTEE SHALL OBTAIN, REVIEW AND EVALUATE ALL RELEVANT INFORMATION PERTAINING TO THE ABILITY OF A STUDENT WITH A HANDICAPPING CONDITION TO PARTICIPATE IN SCHOOL ATHLETIC PROGRAMS AND/OR ACTIVITIES, INCLUDING BUT NOT LIMITED TO PHYSICAL EDUCATION CLASSES AND COMPETITIVE AND NON-COMPETITIVE SPORTS. BASED UPON SUCH REVIEW, THE COMMITTEE SHALL DETERMINE THE APPROPRIATE LEVEL OF PARTICIPATION IN SCHOOL ATHLETIC PROGRAMS AND/OR ACTIVITIES PERMITTED FOR A STUDENT WITH A HANDICAPPING CONDITION. NO ELIGIBILITY REQUIREMENTS SHALL PRECLUDE SUCH STUDENT'S PARTICIPATION IN SCHOOL ATHLETIC PROGRAMS AND/OR ACTIVITIES IF THE COMMITTEE DETERMINES THAT SUCH PARTICIPATION IS PERMISSIBLE.

S 5. This act shall take effect immediately, provided that the amendments to subdivision 4 of section 4401-a of the education law made by section one of this act shall be subject to the expiration and reversion of such section pursuant to subdivision d of section 27 of chapter 378 of the laws of 2007, as amended, when upon such date the provisions of section two of this act shall take effect.