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I N   S E N A T E

June 19, 2012

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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 the certification or training of teachers, administrators and instructors in the area of dyslexia and related disorders

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

1     Section 1. Section 3004 of the education law is amended by adding a  
2 new subdivision 7 to read as follows:

3     7. A. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE COMMISSIONER IS  
4 AUTHORIZED AND EMPOWERED TO CERTIFY OR REQUIRE TRAINING OF TEACHERS,  
5 ADMINISTRATORS AND INSTRUCTORS IN THE AREA OF DYSLEXIA AND ITS RELATED  
6 DISORDERS. THE COMMISSIONER SHALL HAVE THE POWER TO PRESCRIBE THE NECES-  
7 SARY REGULATIONS AND ESTABLISH SUCH PROGRAMS AND TRAINING RELATED TO THE  
8 NEEDS OF CHILDREN WITH DYSLEXIA OR A RELATED DISORDER. SUCH PROGRAMS AND  
9 TRAINING SHALL INCLUDE, BUT NOT BE LIMITED TO, SUCCESSFUL COMPLETION OF  
10 SUFFICIENT HOURS OF COURSEWORK AND SUPERVISED CLINICAL EXPERIENCE, AS  
11 DETERMINED BY THE COMMISSIONER TO BE EVIDENCE-BASED EFFECTIVE PROGRAMS,  
12 SUCH AS MULTISENSORY STRUCTURED LANGUAGE EDUCATION OR OTHER SIMILAR  
13 EDUCATION PROGRAMS FOR TEACHING CHILDREN AT RISK FOR BEING, OR DIAGNOSED  
14 AS, DYSLEXIC OR A RELATED DISORDER. SUCH PROGRAMS OR TRAINING MAY BE  
15 OBTAINED FROM AN INSTITUTION OR PROVIDER WHICH HAS BEEN APPROVED BY THE  
16 DEPARTMENT TO PROVIDE SUCH PROGRAMS AND TRAINING.

17     B. FOR THE PURPOSES OF THIS SECTION, THE TERM "DYSLEXIA" SHALL MEAN A  
18 SPECIFIC LEARNING DISORDER THAT IS NEUROLOGICAL IN ORIGIN AND THAT IS  
19 CHARACTERIZED BY UNEXPECTED DIFFICULTIES WITH ACCURATE OR FLUENT WORD  
20 RECOGNITION AND BY POOR SPELLING AND DECODING ABILITIES NOT CONSISTENT  
21 WITH THE PERSON'S INTELLIGENCE, MOTIVATION, AND SENSORY CAPABILITIES,  
22 WHICH DIFFICULTIES TYPICALLY RESULT FROM A DEFICIT IN THE PHONOLOGICAL  
23 COMPONENT OF LANGUAGE.

24     S 2. Clause (a) and subclause (i) of clause (b) of subparagraph 3 of  
25 paragraph b of subdivision 1 of section 4402 of the education law,  
26 clause (a) as amended by chapter 53 of the laws of 1991 and subclause

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

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1 (i) of clause (b) as amended by chapter 378 of the laws of 2007, are  
2 amended to read as follows:

3 (a) Obtain, review and evaluate all relevant information, including  
4 but not limited to that presented by the parent, person in parental  
5 relationship and teacher, pertinent to each child suspected of or iden-  
6 tified as having a handicapping condition, including the results of a  
7 physical examination performed in accordance with sections nine hundred  
8 three, nine hundred four and nine hundred five of this chapter and,  
9 where determined to be necessary by a school psychologist, an appropri-  
10 ate psychological evaluation performed by a qualified private or school  
11 psychologist, and other appropriate assessments as necessary to ascer-  
12 tain the physical, mental, emotional and cultural-educational factors  
13 which may contribute to the suspected or identified handicapping condi-  
14 tion, and all other school data which bear on the child's progress,  
15 including, where appropriate, observation of classroom performance. IF  
16 THE COMMITTEE OR SUBCOMMITTEE HAS REASON TO BELIEVE THAT THE HANDICAP-  
17 PING CONDITION MAY INVOLVE DYSLEXIA, AS DEFINED IN PARAGRAPH B OF SUBDI-  
18 VISION SEVEN OF SECTION THREE THOUSAND FOUR OF THIS CHAPTER, OR A  
19 RELATED DISORDER, THE CHILD SHALL BE EVALUATED AND TESTED ACCORDING TO  
20 CURRENT SCIENTIFIC UNDERSTANDING OF DYSLEXIA TO DETERMINE WHETHER THE  
21 CHILD HAS DYSLEXIA OR A RELATED DISORDER.

22 (i) Make recommendations based upon a written evaluation setting forth  
23 the reasons for the recommendations, to the child's parent or person in  
24 parental relation and board of education or trustees as to appropriate  
25 educational programs and placement in accordance with the provisions of  
26 subdivision six of section forty-four hundred one-a of this article, and  
27 as to the advisability of continuation, modification, or termination of  
28 special class or program placements which evaluation shall be furnished  
29 to the child's parent or person in parental relation together with the  
30 recommendations provided, however that the committee may recommend a  
31 placement in a school which uses psychotropic drugs only if such school  
32 has a written policy pertaining to such use that is consistent with  
33 subdivision four-a of section thirty-two hundred eight of this chapter  
34 and that the parent or person in parental relation is given such written  
35 policy at the time such recommendation is made. IF THE CHILD IS DETER-  
36 MINED TO HAVE DYSLEXIA, AS DEFINED IN PARAGRAPH B OF SUBDIVISION SEVEN  
37 OF SECTION THREE THOUSAND FOUR OF THIS CHAPTER, OR A RELATED DISORDER,  
38 THE RECOMMENDATIONS SHALL BE MADE BY A TEAM THAT IS KNOWLEDGEABLE IN THE  
39 CURRENT SCIENTIFIC UNDERSTANDING OF DYSLEXIA, INCLUDING THE INSTRU-  
40 TIONAL COMPONENTS AND APPROACHES FOR STUDENTS WITH DYSLEXIA. If such  
41 recommendation is not acceptable to the parent or person in parental  
42 relation, such parent or person in parental relation may appeal such  
43 recommendation as provided for in section forty-four hundred four of  
44 this [chapter] ARTICLE.

45 S 3. Clause (b) of subparagraph 3 of paragraph b of subdivision 1 of  
46 section 4402 of the education law, as amended by chapter 716 of the laws  
47 of 1991, is amended to read as follows:

48 (b) Make recommendations based upon a written evaluation setting forth  
49 the reasons for the recommendations, to the child's parent or person in  
50 parental relationship and board of education or trustees as to appropri-  
51 ate educational programs and placement in accordance with the provisions  
52 of subdivision six of section forty-four hundred one-a of this article,  
53 and as to the advisability of continuation, modification, or termination  
54 of special class or program placements which evaluation shall be  
55 furnished to the child's parent or person in parental relationship  
56 together with the recommendations provided, however that the committee

1 may recommend a placement in a school which uses psychotropic drugs only  
2 if such school has a written policy pertaining to such use and that the  
3 parent or person in parental relationship is given such written policy  
4 at the time such recommendation is made. IF THE CHILD IS DETERMINED TO  
5 HAVE DYSLEXIA, AS DEFINED IN PARAGRAPH B OF SUBDIVISION SEVEN OF SECTION  
6 THREE THOUSAND FOUR OF THIS CHAPTER, OR A RELATED DISORDER, THE RECOM-  
7 MENDATIONS SHALL BE MADE BY A TEAM THAT IS KNOWLEDGEABLE IN THE INSTRU-  
8 TIONAL COMPONENTS AND APPROACHES FOR STUDENTS WITH DYSLEXIA. If such  
9 recommendation is not acceptable to the parent or person in parental  
10 relationship, such parent or person in parental relationship may appeal  
11 such recommendation as provided for in section forty-four hundred four  
12 of this [chapter] ARTICLE.

13 S 4. Paragraph a of subdivision 2 of section 4402 of the education  
14 law, as amended by chapter 243 of the laws of 1989, is amended to read  
15 as follows:

16 a. The board of education or trustees of each school district shall be  
17 required to furnish suitable educational opportunities for children with  
18 handicapping conditions by one of the special services or programs list-  
19 ed in subdivision two of section forty-four hundred one OF THIS ARTICLE.  
20 The need of the individual child shall determine which of such services  
21 shall be rendered. IF THE CHILD IS A CHILD WITH DYSLEXIA OR A RELATED  
22 DISORDER, THE DISTRICT SHALL BE REQUIRED TO PROVIDE TO SUCH CHILD THE  
23 SERVICES OF A TEACHER OR INSTRUCTOR TRAINED IN DYSLEXIA AND RELATED  
24 DISORDERS PURSUANT TO SUBDIVISION SEVEN OF SECTION THREE THOUSAND FOUR  
25 OF THIS CHAPTER. Each district shall provide to the maximum extent  
26 appropriate such services in a manner which enables children with handi-  
27 capping conditions to participate in regular education services when  
28 appropriate. Such services or programs shall be furnished between the  
29 months of September and June of each year, except that for the nineteen  
30 hundred eighty-seven--eighty-eight school year and thereafter, with  
31 respect to the students whose handicapping conditions are severe enough  
32 to exhibit the need for a structured learning environment of twelve  
33 months duration to maintain developmental levels, the board of education  
34 or trustees of each school district upon the recommendation of the  
35 committee on special education and, in the first instance, the consent  
36 of the parent shall also provide, either directly or by contract, for  
37 the provision of special services and programs as defined in section  
38 forty-four hundred one of this article during the months of July and  
39 August as contained in the individualized education program for each  
40 eligible child, and with prior approval by the commissioner if required;  
41 provided that (i) a student with a handicapping condition who is first  
42 eligible to attend public school in the nineteen hundred eighty-seven--  
43 eighty-eight school year shall not be eligible to receive services  
44 pursuant to this paragraph during the months of July and August nineteen  
45 hundred eighty-seven and (ii) a student with a handicapping condition  
46 who is first eligible to attend public school in the nineteen hundred  
47 eighty-eight--eighty-nine school year shall not be eligible to receive  
48 services pursuant to this paragraph during the months of July and August  
49 nineteen hundred eighty-eight and (iii) a student with a handicapping  
50 condition who is eligible for services during the months of July and  
51 August nineteen hundred eighty-nine pursuant to the provisions of subdi-  
52 vision six of section forty-four hundred ten of this article shall not  
53 be eligible to receive services pursuant to this paragraph during such  
54 months and (iv) a student with a handicapping condition who is eligible  
55 for services, including services during the months of July and August,  
56 pursuant to section forty-four hundred ten of this article shall not be

1 eligible to receive services pursuant to this paragraph during the  
2 months of July and August.  
3 S 5. This act shall take effect on the thirtieth day after it shall  
4 have become a law, provided that the amendments to subclause (i) of  
5 clause (b) of subparagraph 3 of paragraph b of subdivision 1 of section  
6 4402 of the education law made by section two of this act shall be  
7 subject to the expiration and reversion of such clause pursuant to  
8 section 22 of chapter 352 of the laws of 2005, as amended, and subdivi-  
9 sion d of section 27 of chapter 378 of the laws of 2007, as amended,  
10 when upon such date the provisions of section three of this act shall  
11 take effect.