

S. 2496

A. 2775

2013-2014 Regular Sessions

S E N A T E - A S S E M B L Y

January 17, 2013

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

IN ASSEMBLY -- Introduced by M. of A. BRENNAN, MILLMAN, ABINANTI, BOYLAND, CASTRO, MARKEY, MILLER, STEVENSON, TITONE -- Multi-Sponsored by -- M. of A. CLARK, HOOPER, McDONOUGH, PAULIN, SCARBOROUGH, WEPRIN -- read once and referred to the Committee on Higher Education

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

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

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1 RECOGNITION AND BY POOR SPELLING AND DECODING ABILITIES NOT CONSISTENT
2 WITH THE PERSON'S INTELLIGENCE, MOTIVATION, AND SENSORY CAPABILITIES,
3 WHICH DIFFICULTIES TYPICALLY RESULT FROM A DEFICIT IN THE PHONOLOGICAL
4 COMPONENT OF LANGUAGE.

5 S 2. Clause (a) and subclause (i) of clause (b) of subparagraph 3 of
6 paragraph b of subdivision 1 of section 4402 of the education law,
7 clause (a) as amended by chapter 53 of the laws of 1991 and subclause
8 (i) of clause (b) as amended by chapter 378 of the laws of 2007, are
9 amended to read as follows:

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

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

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

55 (b) Make recommendations based upon a written evaluation setting forth
56 the reasons for the recommendations, to the child's parent or person in

1 parental relationship and board of education or trustees as to appropri-
2 ate educational programs and placement in accordance with the provisions
3 of subdivision six of section forty-four hundred one-a of this article,
4 and as to the advisability of continuation, modification, or termination
5 of special class or program placements which evaluation shall be
6 furnished to the child's parent or person in parental relationship
7 together with the recommendations provided, however that the committee
8 may recommend a placement in a school which uses psychotropic drugs only
9 if such school has a written policy pertaining to such use and that the
10 parent or person in parental relationship is given such written policy
11 at the time such recommendation is made. IF THE CHILD IS DETERMINED TO
12 HAVE DYSLEXIA, AS DEFINED IN PARAGRAPH B OF SUBDIVISION SEVEN OF SECTION
13 THREE THOUSAND FOUR OF THIS CHAPTER, OR A RELATED DISORDER, THE RECOM-
14 MENDATIONS SHALL BE MADE BY A TEAM THAT IS KNOWLEDGEABLE IN THE INSTRU-
15 TIONAL COMPONENTS AND APPROACHES FOR STUDENTS WITH DYSLEXIA. If such
16 recommendation is not acceptable to the parent or person in parental
17 relationship, such parent or person in parental relationship may appeal
18 such recommendation as provided for in section forty-four hundred four
19 of this [chapter] ARTICLE.

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

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

1 condition who is eligible for services during the months of July and
2 August nineteen hundred eighty-nine pursuant to the provisions of subdi-
3 vision six of section forty-four hundred ten of this article shall not
4 be eligible to receive services pursuant to this paragraph during such
5 months and (iv) a student with a handicapping condition who is eligible
6 for services, including services during the months of July and August,
7 pursuant to section forty-four hundred ten of this article shall not be
8 eligible to receive services pursuant to this paragraph during the
9 months of July and August.

10 S 5. This act shall take effect on the thirtieth day after it shall
11 have become a law, provided that the amendments to subclause (i) of
12 clause (b) of subparagraph 3 of paragraph b of subdivision 1 of section
13 4402 of the education law made by section two of this act shall be
14 subject to the expiration and reversion of such clause pursuant to
15 section 22 of chapter 352 of the laws of 2005, as amended, and subdivi-
16 sion d of section 27 of chapter 378 of the laws of 2007, as amended,
17 when upon such date the provisions of section three of this act shall
18 take effect.