

1680

2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

Introduced by Sen. MONTGOMERY -- read twice and ordered printed, and
when printed to be committed to the Committee on Children and Families

AN ACT to amend the social services law 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.

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

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

(E) "CHILD IN OUT-OF-HOME CARE", FOR PURPOSES OF AN EDUCATION STABILITY DETERMINATION, SHALL MEAN A CHILD WHO IS ENTITLED TO ATTEND SCHOOL PURSUANT TO SECTION THIRTY-TWO HUNDRED TWO OF THE EDUCATION LAW, A CHILD ELIGIBLE FOR UNIVERSAL PRE-KINDERGARTEN, OR A CHILD ELIGIBLE FOR COMMITTEE ON PRESCHOOL SPECIAL EDUCATION SERVICES WHO:

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

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

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

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

3. UPON REMOVAL OF A CHILD FROM HOME AND PLACEMENT IN OUT-OF-HOME CARE BUT PRIOR TO A DETERMINATION OF THE BEST INTERESTS OF THE CHILD REGARDING SCHOOL PLACEMENT, THE CHILD SHALL REMAIN IN HIS OR HER SCHOOL OF ORIGIN UNLESS CONTINUING AT THE SCHOOL OF ORIGIN WOULD CREATE AN IMMEDIATE RISK TO THE LIFE OR HEALTH OF THE CHILD. THE CHILD SHALL REMAIN IN HIS OR HER SCHOOL OF ORIGIN UNLESS THE LOCAL SOCIAL SERVICES DISTRICT, THE BIRTH OR ADOPTIVE PARENT OF THE CHILD, AND THE ATTORNEY FOR THE CHILD, AFTER CONSULTATION WITH THE CHILD, CONSENT TO A CHANGE IN SCHOOL PLACEMENT, OR THE COURT MAKES A DETERMINATION THAT IT WOULD BE IN THE BEST INTERESTS OF THE CHILD TO CHANGE SCHOOLS.

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

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

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

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

(III) MAKE A WRITTEN REQUEST TO THE SCHOOL DISTRICT WHERE THE CHILD'S 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 INSTRU-
37 CTIONAL 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 THIS ARTICLE AS TO WHETHER IT IS IN THE BEST
44 INTERESTS OF THE CHILD TO REMAIN IN HIS OR HER SCHOOL OF ORIGIN, IF THE
45 PARTIES HAVE NOT OTHERWISE AGREED TO THE APPROPRIATE SCHOOL PLACEMENT OF
46 THE CHILD.

47 S 3. The section heading of section 3209 of the education law, as
48 amended by chapter 569 of the laws of 1994, is amended to read as
49 follows:

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

52 S 4. Paragraphs a and a-1 of subdivision 1 of section 3209 of the
53 education law, as amended by chapter 101 of the laws of 2003, are
54 amended and a new paragraph a-2 is added to read as follows:

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

1 (1) a child or youth who lacks a fixed, regular, and adequate night-
2 time residence, including a child or youth who is:
3 (i) sharing the housing of other persons due to a loss of housing,
4 economic hardship or a similar reason;
5 (ii) living in motels, hotels, trailer parks or camping grounds due to
6 the lack of alternative adequate accommodations;
7 (iii) abandoned in hospitals;
8 (iv) awaiting foster care placement; or
9 (v) a migratory child, as defined in subsection two of section thir-
10 teen hundred nine of the Elementary and Secondary Education Act of 1965,
11 as amended, who qualifies as homeless under any of the provisions of
12 clauses (i) through (iv) of this subparagraph or subparagraph two of
13 this paragraph; or
14 (2) a child or youth who has a primary nighttime location that is:
15 (i) a supervised publicly or privately operated shelter designed to
16 provide temporary living accommodations including, but not limited to,
17 shelters operated or approved by the state or local department of social
18 services, and residential programs for runaway and homeless youth estab-
19 lished pursuant to article nineteen-H of the executive law; or
20 (ii) a public or private place not designed for, or ordinarily used
21 as, a regular sleeping accommodation for human beings, including a child
22 or youth who is living in a car, park, public space, abandoned building,
23 substandard housing, bus or train stations or similar setting.
24 a-1. Exception. For the purposes of this article the term "homeless
25 child" OR "CHILD WHO IS HOMELESS" shall not include a child [in a foster
26 care placement or] receiving educational services pursuant to subdivi-
27 sion [four,] five, six, six-a or seven of section thirty-two hundred two
28 of this article or pursuant to article eighty-one, eighty-five, eighty-
29 seven or eighty-eight of this chapter.
30 A-2. CHILD AWAITING FOSTER CARE PLACEMENT. THE TERM "CHILD AWAITING
31 FOSTER CARE PLACEMENT" SHALL INCLUDE A CHILD IN OUT-OF-HOME CARE THROUGH
32 THE END OF THE SCHOOL YEAR IN WHICH THE CHILD ENTERED OUT-OF-HOME CARE.
33 S 4-a. Paragraph a of subdivision 1 of section 3209 of the education
34 law, as added by chapter 569 of the laws of 1994, is amended and a new
35 paragraph a-1 is added to read as follows:
36 a. Homeless child. For the purposes of this article, the term "home-
37 less child" OR "CHILD WHO IS HOMELESS" shall mean:
38 (1) a child who lacks a fixed, regular, and adequate nighttime resi-
39 dence; or
40 (2) a child who has a primary nighttime location that is:
41 (i) a supervised publicly or privately operated shelter designed to
42 provide temporary living accommodations including, but not limited to,
43 shelters operated or approved by the state or local department of social
44 services, and residential programs for runaway and homeless youth estab-
45 lished pursuant to article nineteen-H of the executive law; or
46 (ii) a public or private place not designed for, or ordinarily used
47 as, a regular sleeping accommodation for human beings.
48 [(3) the] THE term "homeless child" OR "CHILD WHO IS HOMELESS" shall
49 not include a child [in foster care or] receiving educational services
50 pursuant to subdivision [four,] five, six, six-a or seven of section
51 thirty-two hundred two of this article or pursuant to article eighty-
52 one, eighty-five, eighty-seven or eighty-eight of this chapter.
53 A-1. CHILD AWAITING FOSTER CARE PLACEMENT. THE TERM "CHILD AWAITING
54 FOSTER CARE PLACEMENT" SHALL INCLUDE A CHILD IN OUT-OF-HOME CARE THROUGH
55 THE END OF THE SCHOOL YEAR IN WHICH THE CHILD ENTERED OUT-OF-HOME CARE.

1 S 5. Subdivision 2 of section 3209 of the education law, as amended by
2 chapter 569 of the laws of 1994, is amended to read as follows:

3 2. Choice of SCHOOL AND district OF ATTENDANCE.

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

10 (1) the school district of current location;

11 (2) the school district of origin; or

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

13 b. (1) Notwithstanding any other provision of law to the contrary,
14 [where the public school district in which a homeless child is temporar-
15 ily housed is the same school district the child was attending on a
16 tuition-free basis or was entitled to attend when circumstances arose
17 which caused the child to become homeless, the homeless child shall be
18 entitled to attend the schools of such district without the payment of
19 tuition in accordance with subdivision one of section thirty-two hundred
20 two of this article. Such child may choose to remain in the public
21 school building they previously attended until the end of the school
22 year and for one additional year if that year constitutes the child's
23 terminal year in such building in lieu of the school serving the attend-
24 ance zone in which the temporary housing facility is located.] THE CHILD
25 WHO IS HOMELESS OR IN OUT-OF-HOME CARE SHALL BE ENTITLED TO ATTEND THE
26 DESIGNATED SCHOOL IN THE DESIGNATED DISTRICT PURSUANT TO PARAGRAPH A OF
27 THIS SUBDIVISION WITHOUT PAYMENT OF TUITION:

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

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

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

35 (2) Notwithstanding any other provision of law to the contrary, where
36 the public school or school district a [homeless] child WHO IS HOMELESS
37 OR IN OUT-OF-HOME CARE was attending on a tuition-free basis or was
38 entitled to attend when circumstances arose which caused the child to
39 become homeless OR ENTER OUT-OF-HOME CARE is located outside the state,
40 the [homeless] child WHO IS HOMELESS OR IN OUT-OF-HOME CARE shall be
41 [deemed a resident] ELIGIBLE TO ATTEND THE SCHOOLS of the school
42 district in which the hotel, motel, shelter or other temporary housing
43 arrangement of the child is currently located and shall be entitled to
44 attend the schools of such district without payment of tuition in
45 accordance with subdivision one of section thirty-two hundred two of
46 this article. TO THE EXTENT REQUIRED BY SUBTITLE B OF TITLE VII OF THE
47 MCKINNEY-VENTO ASSISTANCE ACT, SUCH CHILD WHO IS HOMELESS OR IN OUT-OF-
48 HOME CARE SHALL BE AFFORDED THE RIGHT TO DESIGNATE A PUBLIC SCHOOL
49 LOCATED IN A CONTIGUOUS STATE AS THE SCHOOL OF ORIGIN OF THE CHILD OR
50 YOUTH AND THE SCHOOL DISTRICT OF CURRENT LOCATION SHALL ARRANGE FOR THE
51 TRANSPORTATION OF SUCH CHILD TO THE SCHOOL OF ORIGIN IN ACCORDANCE WITH
52 THE PROVISIONS OF SUCH FEDERAL LAW. Such OUT-OF-STATE SCHOOL district
53 [of residence] shall not be considered a school district of origin or a
54 school district of current location for purposes of this section.

55 c. Notwithstanding the provisions of paragraph a of this subdivision,
56 a [homeless child who has designated the school district of current

1 location as the district of attendance and] CHILD WHO IS HOMELESS OR IN
2 OUT-OF-HOME CARE who has relocated to another temporary housing arrange-
3 ment outside of such district, or to a different attendance zone or
4 community school district within such district[,]:

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

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

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

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

20 (1) the name of the child,

21 (2) the name of the parent or person in parental relation to the
22 child,

23 (3) THE NAME OF THE FOSTER PARENT FOR A CHILD IN OUT-OF-HOME CARE,
24 WHERE APPLICABLE,

25 (4) THE NAME OF A REPRESENTATIVE FROM THE LOCAL SOCIAL SERVICES
26 DISTRICT, WHERE APPLICABLE FOR A CHILD IN OUT-OF-HOME CARE,

27 (5) the name and location of the temporary housing arrangement,

28 (6) the name of the school OF ORIGIN AND THE SCHOOL district of
29 origin,

30 (7) the name of the school district where the child's records are
31 located,

32 (8) the complete address where the family was located at the time
33 circumstances arose which caused such child to become homeless OR ENTER
34 OUT-OF-HOME CARE,

35 (9) WHETHER TRANSPORTATION IS REQUESTED, and

36 (10) any other information required by the commissioner.

37 All school districts, LOCAL SOCIAL SERVICES DISTRICTS, temporary hous-
38 ing facilities operated or approved by a local social services district,
39 and residential facilities for runaway and homeless youth shall make
40 such forms available. Where the homeless child is located in a temporary
41 housing facility operated or approved by a local social services
42 district, or a residential facility for runaway and homeless youth, the
43 director of the facility or a person designated by the LOCAL social
44 services district, shall, within two business days, assist the designa-
45 tor in completing the designation forms and enrolling the homeless child
46 in the designated school district. WHERE THE CHILD IS IN OUT-OF-HOME
47 CARE, THE LOCAL SOCIAL SERVICES DISTRICT MUST COMPLETE THE DESIGNATION
48 FORM WITHIN ONE BUSINESS DAY OF REMOVAL OF SUCH CHILD FROM HIS OR HER
49 HOME, MOVING THE CHILD TO A NEW FOSTER HOME, OBTAINING CONSENT TO CHANGE
50 THE CURRENT SCHOOL PLACEMENT OF A CHILD, OR RECEIPT OF A COURT ORDER
51 REGARDING THE SCHOOL PLACEMENT OF THE CHILD, AS REQUIRED BY SUBDIVISION
52 D OF SECTION THREE HUNDRED SEVENTY-THREE-B OF THE SOCIAL SERVICES LAW.

53 e. Upon [receipt of the designation form] SELECTION OF A SCHOOL OR
54 SCHOOL DISTRICT OF ATTENDANCE BY A DESIGNATOR OR IDENTIFICATION OF A
55 STUDENT AS HOMELESS OR IN OUT-OF-HOME CARE BY ITS LOCAL EDUCATIONAL

1 AGENCY LIAISON, the [designated] AFFECTED school district shall imme-
2 diately AND NO LATER THAN ONE BUSINESS DAY:
3 (1) admit the [homeless] child WHO IS HOMELESS OR IN OUT-OF-HOME CARE
4 EVEN IF THE CHILD IS UNABLE TO PRODUCE RECORDS NORMALLY REQUIRED FOR
5 ENROLLMENT, SUCH AS PREVIOUS ACADEMIC RECORDS, MEDICAL RECORDS, PROOF OF
6 RESIDENCY OR OTHER DOCUMENTATION;
7 (2) treat the [homeless] child WHO IS HOMELESS OR IN OUT-OF-HOME CARE
8 as a resident for all purposes;
9 (3) WHERE APPLICABLE, make a written request to the school district
10 where the child's records are located for a copy of such records; and
11 (4) [forward the designation form to the commissioner, and the school
12 district of origin where applicable] WHERE APPLICABLE, ASSIST THE CHILD
13 AND HIS OR HER PARENT OR PERSON IN PARENTAL RELATION, OR THE LOCAL
14 SOCIAL SERVICES DISTRICT FOR A CHILD IN OUT-OF-HOME CARE, IN COMPLETING
15 THE DESIGNATION FORM.
16 f. Within five days of receipt of a request for records pursuant to
17 subparagraph three of paragraph e of this subdivision, the school
18 district shall forward, in a manner consistent with state and federal
19 law, a complete copy of the [homeless child's] records FOR THE CHILD WHO
20 IS HOMELESS OR IN OUT-OF-HOME CARE, including, but not limited to, proof
21 of age, academic records, evaluations, immunization records, and guardi-
22 anship papers, if applicable.
23 g. WHERE THE SCHOOL OF ORIGIN IS A CHARTER SCHOOL, THE SCHOOL DISTRICT
24 DESIGNATED PURSUANT TO THIS SUBDIVISION SHALL BE DEEMED TO BE THE SCHOOL
25 DISTRICT OF RESIDENCE OF SUCH CHILD FOR PURPOSES OF FISCAL AND PROGRAM-
26 MATIC RESPONSIBILITY UNDER ARTICLE FIFTY-SIX OF THIS CHAPTER. WHERE A
27 CHILD WHO IS HOMELESS OR IN OUT-OF-HOME CARE BECOMES PERMANENTLY HOUSED
28 BY REASON OF PLACEMENT IN ONE OF THE FOLLOWING RESIDENTIAL SETTINGS, THE
29 SCHOOL DISTRICT OF ORIGIN SHALL BE DEEMED TO BE THE STUDENT'S SCHOOL
30 DISTRICT OF RESIDENCE FOR PURPOSES OF ASSIGNING FISCAL AND/OR PROGRAM-
31 MATIC RESPONSIBILITY UNDER ANY RELATED PROVISION OF LAW:
32 (1) AN INTERMEDIATE CARE FACILITY, INDIVIDUALIZED RESIDENTIAL ALTERNA-
33 TIVE OR OTHER SCHOOL OR FACILITY SUBJECT TO THE PROVISIONS OF SUBDIVI-
34 SION FIVE OF SECTION THIRTY-TWO HUNDRED TWO OF THIS ARTICLE; OR
35 (2) A HOSPITAL OR OTHER INSTITUTION FOR THE CARE, CUSTODY OR TREATMENT
36 SUBJECT TO THE PROVISIONS OF SUBDIVISION SIX OF SECTION THIRTY-TWO
37 HUNDRED TWO OF THIS ARTICLE; OR
38 (3) A FACILITY UNDER THE JURISDICTION OF THE OFFICE OF CHILDREN AND
39 FAMILY SERVICES/DIVISION FOR YOUTH SUBJECT TO THE PROVISIONS OF SUBDIVI-
40 SION SIX-A OF SECTION THIRTY-TWO HUNDRED TWO OF THIS ARTICLE; OR
41 (4) A COUNTY CORRECTIONAL FACILITY SUBJECT TO THE PROVISIONS OF SUBDI-
42 VISION SEVEN OF SECTION THIRTY-TWO HUNDRED TWO OF THIS ARTICLE; OR
43 (5) A CHILD CARE INSTITUTION SUBJECT TO THE PROVISIONS OF ARTICLE
44 EIGHTY-ONE OF THIS CHAPTER; OR
45 (6) A STATE-SUPPORTED SCHOOL FOR THE DEAF OR BLIND SUBJECT TO THE
46 PROVISIONS OF ARTICLE EIGHTY-FIVE OF THIS CHAPTER; OR
47 (7) A STATE-OPERATED SCHOOL SUBJECT TO THE PROVISIONS OF ARTICLE
48 EIGHTY-SEVEN OR EIGHTY-EIGHT OF THIS CHAPTER; OR
49 (8) AN APPROVED PRIVATE RESIDENTIAL SCHOOL FOR THE EDUCATION OF
50 STUDENTS WITH DISABILITIES SUBJECT TO THE PROVISIONS OF ARTICLE EIGHTY-
51 NINE OF THIS CHAPTER.
52 H. EACH DESIGNATED SCHOOL DISTRICT OF ATTENDANCE SHALL ENSURE THAT:
53 (1) CHILDREN WHO ARE HOMELESS OR IN OUT-OF-HOME CARE HAVE ACCESS TO
54 THE SAME PUBLIC PRE-KINDERGARTEN PROGRAMS, REGULATED BY THE DEPARTMENT,
55 AS ARE PROVIDED TO OTHER CHILDREN RESIDING IN THE SCHOOL DISTRICT. TO
56 ENSURE ACCESS:

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

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

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

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

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

17 (3) CHILDREN WHO ARE HOMELESS OR IN OUT-OF-HOME CARE WHO MEET THE
18 RELEVANT ELIGIBILITY CRITERIA ARE ABLE TO PARTICIPATE IN FEDERAL, STATE,
19 OR LOCAL BEFORE-SCHOOL AND AFTER-SCHOOL PROGRAMS, INCLUDING BUT NOT
20 LIMITED TO EXTRACURRICULAR ACTIVITIES.

21 I. EACH DESIGNATED SCHOOL DISTRICT OF ATTENDANCE, OR THE CHARTER
22 SCHOOL TO THE EXTENT CONSISTENT WITH ARTICLE FIFTY-SIX OF THIS CHAPTER
23 IN THE CASE OF A CHILD WHO IS HOMELESS OR IN OUT-OF-HOME CARE ATTENDING
24 A CHARTER SCHOOL, SHALL ENSURE THAT CHILDREN WHO ARE HOMELESS OR IN
25 OUT-OF-HOME CARE ARE PROVIDED, AT A MINIMUM, SERVICES COMPARABLE TO
26 SERVICES OFFERED TO OTHER STUDENTS IN THE PUBLIC SCHOOL THEY ATTEND,
27 INCLUDING, BUT NOT LIMITED TO, THE FOLLOWING:

28 (1) TRANSPORTATION SERVICES;

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

35 (3) PROGRAMS IN VOCATIONAL AND TECHNICAL EDUCATION;

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

37 (5) SCHOOL NUTRITION PROGRAMS.

38 J. The commissioner shall promulgate regulations setting forth the
39 circumstances pursuant to which a change in designation may be made and
40 establishing a procedure for the identification of the school district
41 of origin.

42 S 6. Subdivision 3 of section 3209 of the education law, as added by
43 chapter 569 of the laws of 1994, paragraph b as amended by section 28 of
44 part B of chapter 57 of the laws of 2007, is amended to read as follows:

45 3. Reimbursement.

46 a. [Where] NOTWITHSTANDING ANY OTHER PROVISION OF LAW, WHERE either
47 the school district of current location or a school district participat-
48 ing in a regional placement plan is designated as the district in which
49 the [homeless] CHILD WHO IS HOMELESS OR IN OUT-OF-HOME CARE child shall
50 attend upon instruction and such [homeless] child's school district of
51 origin is within New York state AND IS DIFFERENT FROM THE SCHOOL
52 DISTRICT OF CURRENT LOCATION, the school district providing instruction
53 shall be eligible for reimbursement by the department, as approved by
54 the commissioner, for the direct cost of educational services, not
55 otherwise reimbursed under special federal programs, calculated pursuant
56 to regulations of the commissioner for the period of time for which such

1 services are provided. The claim for such reimbursement shall be in a
2 form prescribed by the commissioner. The educational costs for such
3 children shall not be otherwise aidable or reimbursable.

4 b. The school district of origin shall reimburse the department for
5 its expenditure for educational services on behalf of a [homeless] child
6 WHO IS HOMELESS OR IN OUT-OF-HOME CARE pursuant to paragraph a of this
7 subdivision in an amount equal to the school district basic contrib-
8 ution, as such term is defined in subdivision eight of section forty-
9 four hundred one of this chapter, pro-rated for the period of time for
10 which such services were provided in the base year by a school district
11 other than the school district of origin. Upon certification by the
12 commissioner, the comptroller shall deduct from any state funds which
13 become due to the school district of origin an amount equal to the
14 reimbursement required to be made by such school district in accordance
15 with this paragraph, and the amount so deducted shall not be included in
16 the operating expense of such district for the purpose of computing the
17 approved operating expense pursuant to paragraph t of subdivision one of
18 section thirty-six hundred two of this chapter.

19 S 7. Subdivision 4 of section 3209 of the education law, as added by
20 chapter 569 of the laws of 1994, is amended to read as follows:

21 4. Transportation.

22 a. A LOCAL social services district shall provide for the transporta-
23 tion of each homeless child who is eligible for benefits pursuant to
24 section three hundred fifty-j of the social services law, to and from a
25 temporary housing location in which the child was placed by the LOCAL
26 social services district and the school attended by such child pursuant
27 to this section, if such temporary housing facility is located outside
28 of the designated school district pursuant to paragraph a of subdivision
29 two of this section. A LOCAL social services district shall be author-
30 ized to contract with a board of education or a board of cooperative
31 educational services for the provision of such transportation. This
32 paragraph shall apply to placements made by a LOCAL social services
33 district without regard to whether a payment is made by the district to
34 the operator of the temporary housing facility.

35 b. The division for youth, to the extent funds are provided for such
36 purpose, as determined by the director of the budget, shall provide for
37 the transportation of each homeless child who is living in a residential
38 program for runaway and homeless youth established pursuant to article
39 nineteen-H of the executive law, to and from such residential program,
40 and the school attended by such child pursuant to this section, if such
41 temporary housing location is located outside the designated school
42 district. The division for youth or the director of a residential
43 program for runaway and homeless youth shall be authorized to contract
44 with a school district or a board of cooperative educational services
45 for the provision of such transportation.

46 c. Notwithstanding any other provision of law, any homeless child not
47 entitled to receive transportation pursuant to paragraph a OR B of this
48 subdivision who requires transportation in order to attend [a school
49 district designated pursuant to paragraph a of subdivision two of this
50 section outside of the district in which such child is housed] THE
51 SCHOOL OF ORIGIN, shall be entitled to receive such transportation
52 pursuant to this paragraph. [If the designated school district pursuant
53 to paragraph a of subdivision two of this section is the school district
54 of origin or a school district participating in a regional placement
55 plan, such school district] THE DISTRICT IN WHICH THE SCHOOL OF ORIGIN
56 IS LOCATED shall provide transportation to and from the child's tempo-

1 rary housing location and the school the child legally attends. Such
2 transportation shall not be in excess of fifty miles each way except
3 where the commissioner certifies that transportation in excess of fifty
4 miles is in the best interest of the child. Any cost incurred for such
5 transportation that is allowable pursuant to the applicable provision of
6 parts two and three of article seventy-three of this chapter or herein,
7 shall be aidable pursuant to subdivision seven of section thirty-six
8 hundred two of this chapter, provided that the approved transportation
9 expense shall not exceed an amount determined by the commissioner to be
10 the total cost for providing the most cost-effective mode of such trans-
11 portation in a manner consistent with commissioner's regulations. The
12 commissioner shall promulgate regulations setting forth the circum-
13 stances pursuant to which parent accompaniment for transportation may be
14 reimbursable, including but not limited to: the age of the child; the
15 distance of the transportation; the cost-effectiveness of the transpor-
16 tation; and whether the child has a handicapping condition.

17 d. Notwithstanding any other provision of law, where [a homeless child
18 designates the school district of current location as the district the
19 child will attend, such] THE SCHOOL DISTRICT OF CURRENT LOCATION IS
20 DESIGNATED FOR A HOMELESS CHILD OR A CHILD IN OUT-OF-HOME CARE, THE
21 DESIGNATED school district shall provide transportation to such child on
22 the same basis as a resident student.

23 e. [Notwithstanding any other provision of law, if a homeless child
24 chooses to remain in the public school building the child previously
25 attended pursuant to subparagraph one of paragraph b of subdivision two
26 of this section or paragraph c of subdivision two of this section the
27 school district shall provide transportation to and from the child's
28 temporary housing location and the school the child legally attends if
29 such temporary housing is located in a different attendance zone or
30 community school district within such district. The cost of such trans-
31 portation shall be reimbursed in accordance with the provisions of para-
32 graph c of this subdivision.]

33 NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ANY CHILD IN OUT-OF-HOME
34 CARE WHO IS NOT AWAITING FOSTER CARE PLACEMENT AND WHO REQUIRES TRANS-
35 PORTATION IN ORDER TO ATTEND THE SCHOOL OF ORIGIN SHALL BE PROVIDED WITH
36 TRANSPORTATION PURSUANT TO THIS SUBDIVISION. THE LOCAL SOCIAL SERVICES
37 DISTRICT SHALL PROVIDE TRANSPORTATION TO AND FROM THE OUT-OF-HOME CARE
38 PLACEMENT AND THE SCHOOL THE CHILD LEGALLY ATTENDS. SUCH TRANSPORTATION
39 SHALL NOT BE IN EXCESS OF FIFTY MILES EACH WAY, EXCEPT WHERE THE FAMILY
40 COURT WITH JURISDICTION OVER THE CHILD DETERMINES THAT TRANSPORTATION IN
41 EXCESS OF FIFTY MILES IS IN THE BEST INTERESTS OF THE CHILD. A LOCAL
42 SOCIAL SERVICES DISTRICT SHALL BE AUTHORIZED TO CONTRACT WITH A BOARD OF
43 EDUCATION OR A BOARD OF COOPERATIVE EDUCATIONAL SERVICES FOR THE
44 PROVISION OF SUCH TRANSPORTATION.

45 F. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ANY CHILD WHO REQUIRES
46 TRANSPORTATION TO CONTINUE ATTENDANCE IN THE DESIGNATED SCHOOL THROUGH
47 THE REMAINDER OF THE SCHOOL YEAR IN WHICH THE CHILD MOVES INTO PERMANENT
48 HOUSING OR IS FINALLY DISCHARGED FROM OUT-OF-HOME CARE PURSUANT TO
49 SUBPARAGRAPH ONE OF PARAGRAPH B OF SUBDIVISION TWO OF THIS SECTION SHALL
50 BE ENTITLED TO TRANSPORTATION UNDER THIS PARAGRAPH. SUCH TRANSPORTATION
51 SHALL BE PROVIDED PURSUANT TO APPLICABLE PROVISIONS OF THIS SUBDIVISION.

52 G. (1) WHERE A CHILD WHO IS HOMELESS OR IN OUT-OF-HOME CARE ATTENDS A
53 SUMMER EDUCATIONAL PROGRAM IN THE DESIGNATED SCHOOL DISTRICT PURSUANT TO
54 PARAGRAPH A OF SUBDIVISION TWO OF THIS SECTION THAT IS NEEDED FOR SUCH
55 CHILD TO ADVANCE TO THE NEXT GRADE OR TO COMPLETE A HIGH SCHOOL DIPLOMA
56 WITH HIS OR HER PEERS OF THE SAME AGE AND THE TEMPORARY HOUSING LOCATION

1 OF THE STUDENT IS OUTSIDE OF SUCH DESIGNATED SCHOOL DISTRICT, SUCH CHILD
2 SHALL BE ENTITLED TO TRANSPORTATION PURSUANT TO APPLICABLE PROVISIONS OF
3 THIS SUBDIVISION.

4 (2) WHERE A CHILD WHO IS HOMELESS OR IN OUT-OF-HOME CARE ATTENDS A
5 SUMMER EDUCATIONAL PROGRAM OUTSIDE OF THE DESIGNATED SCHOOL DISTRICT
6 THAT IS NEEDED FOR SUCH CHILD TO ADVANCE TO THE NEXT GRADE OR TO
7 COMPLETE A HIGH SCHOOL DIPLOMA WITH HIS OR HER PEERS OF THE SAME AGE AND
8 THE TEMPORARY HOUSING LOCATION OF THE STUDENT IS LOCATED OUTSIDE OF THE
9 SCHOOL DISTRICT WHERE THE SUMMER EDUCATIONAL PROGRAM IS LOCATED, SUCH
10 CHILD SHALL BE ENTITLED TO TRANSPORTATION PURSUANT TO APPLICABLE
11 PROVISIONS OF THIS SUBDIVISION.

12 H. UPON PLACEMENT IN OUT-OF-HOME CARE OR A CHANGE IN OUT-OF-HOME CARE
13 PLACEMENT, THE LOCAL SOCIAL SERVICES DISTRICT SHALL IMMEDIATELY PROVIDE
14 EMERGENCY TRANSPORTATION TO AND FROM THE OUT-OF-HOME CARE PLACEMENT AND
15 THE DESIGNATED SCHOOL WHERE THE CHILD IS ENTITLED TO TRANSPORTATION
16 PURSUANT TO APPLICABLE PROVISIONS OF THIS SUBDIVISION. EMERGENCY TRANS-
17 PORTATION SHALL CONTINUE UNTIL TRANSPORTATION IS PROVIDED PURSUANT TO
18 APPLICABLE PROVISIONS OF THIS SUBDIVISION.

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

21 7. DISPUTE RESOLUTION.

22 A. EACH DISTRICT SHALL:

23 (1) ESTABLISH PROCEDURES, IN ACCORDANCE WITH 42 U.S.C. SECTION
24 11432(G)(3)(E), FOR THE PROMPT RESOLUTION OF DISPUTES REGARDING, BUT NOT
25 LIMITED TO, SCHOOL SELECTION, ENROLLMENT, TRANSPORTATION, A CHILD'S
26 STATUS AS A HOMELESS CHILD OR UNACCOMPANIED YOUTH AS DEFINED IN THE
27 REGULATIONS OF THE COMMISSIONER, A CHILD'S STATUS AS A CHILD IN OUT-OF-
28 HOME CARE; AND

29 (2) IMMEDIATELY ENROLL THE CHILD WHO IS HOMELESS OR IN OUT-OF-HOME
30 CARE, OR THE CHILD WHO CLAIMS TO BE SUCH, IN THE SCHOOL WHERE ENROLLMENT
31 IS SOUGHT, OR CONTINUE ENROLLMENT OF SUCH CHILD IN THE SCHOOL WHERE
32 ENROLLMENT IS SOUGHT; AND

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

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

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

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

47 S 9. Subdivision 1 of section 4410-a of the education law, as added by
48 chapter 53 of the laws of 1990, paragraph b as amended by chapter 569 of
49 the laws of 1994, paragraphs d, e and g as amended by chapter 705 of the
50 laws of 1992, paragraph f as amended by chapter 474 of the laws of 1996,
51 and paragraph h as amended by chapter 280 of the laws of 1994 and such
52 section as renumbered by chapter 705 of the laws of 1992, is amended to
53 read as follows:

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

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

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

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

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

16 e. "Municipality of residence" shall mean the municipality in which a
17 child or such child's family lived at the time the [local social
18 services district assumed responsibility for the placement of such child
19 or family] CIRCUMSTANCES AROSE WHICH CAUSED SUCH CHILD TO BECOME HOME-
20 LESS OR ENTER OUT-OF-HOME CARE, or at the time such child was admitted
21 for care and/or treatment in a facility licensed or operated by another
22 state agency.

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

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

33 h. "Child in residential care" shall mean a child residing in a facil-
34 ity licensed or operated by another state agency as defined by section
35 1.03 of the mental hygiene law or by section two of the public health
36 law.

37 S 10. Subdivision 2 of section 4410-a of the education law, as amended
38 by chapter 280 of the laws of 1994, is amended to read as follows:

39 2. School district evaluation and placement responsibility.

40 A. The school district of current location of a [foster care or home-
41 less child or] child in residential care shall be responsible for the
42 evaluation and placement procedures prescribed for a preschool child
43 suspected of having OR WITH a handicapping condition pursuant to section
44 forty-four hundred ten of this [chapter] ARTICLE. In issuing its writ-
45 ten notice of determination of services, the board of education of such
46 school district shall identify the municipality of residence of a
47 preschool child with a handicapping condition who is a [foster care or
48 homeless child or] child in residential care. Such notice of determi-
49 nation shall be transmitted to both the municipality of residence and
50 the municipality of current location.

51 B. THE SCHOOL DISTRICT DESIGNATED PURSUANT TO PARAGRAPH A OF SUBDIVI-
52 SION TWO OF SECTION THIRTY-TWO HUNDRED NINE OF THIS CHAPTER SHALL BE
53 RESPONSIBLE FOR THE EVALUATION AND PLACEMENT PROCEDURES PRESCRIBED FOR A
54 PRESCHOOL CHILD SUSPECTED OF HAVING OR WITH A DISABILITY WHO IS HOMELESS
55 OR IN OUT-OF-HOME CARE. IN ISSUING ITS WRITTEN NOTICE OF DETERMINATION
56 OF SERVICES, THE BOARD OF EDUCATION OF SUCH SCHOOL DISTRICT SHALL IDEN-

1 TIFY THE MUNICIPALITY OF RESIDENCE OF A PRESCHOOL CHILD WITH A DISABILI-
2 TY WHO IS HOMELESS OR IN OUT-OF-HOME CARE. SUCH NOTICE OF DETERMINATION
3 SHALL BE TRANSMITTED TO BOTH THE MUNICIPALITY OF RESIDENCE AND THE MUNI-
4 CIPALITY OF RECORD, AS DEFINED IN SUBDIVISION THREE OF THIS SECTION.

5 S 11. Subdivision 3 of section 4410-a of the education law, as amended
6 by chapter 280 of the laws of 1994, is amended to read as follows:

7 3. Contract and payment responsibility.

8 A. The municipality of current location shall be the municipality of
9 record for a preschool child with a handicapping condition who is a
10 [foster care or homeless child or] child in residential care for the
11 purposes of section forty-four hundred ten of this [chapter] ARTICLE
12 provided, however, that, notwithstanding the provision of paragraph b of
13 subdivision eleven of such section, the state shall reimburse one
14 hundred percent of the approved costs paid by such municipality which
15 shall be offset by the local contribution due pursuant to subdivision
16 four of this section.

17 B. THE MUNICIPALITY OF RECORD SHALL BE THE MUNICIPALITY IN WHICH THE
18 SCHOOL DISTRICT DESIGNATED PURSUANT TO PARAGRAPH A OF SUBDIVISION TWO OF
19 SECTION THIRTY-TWO HUNDRED NINE OF THIS CHAPTER IS LOCATED FOR A
20 PRESCHOOL CHILD WITH A DISABILITY WHO IS HOMELESS OR IN OUT-OF-HOME CARE
21 FOR THE PURPOSES OF SECTION FORTY-FOUR HUNDRED TEN OF THIS ARTICLE
22 PROVIDED, HOWEVER, THAT, NOTWITHSTANDING THE PROVISION OF PARAGRAPH B OF
23 SUBDIVISION ELEVEN OF SUCH SECTION, THE STATE SHALL REIMBURSE ONE
24 HUNDRED PERCENT OF THE APPROVED COSTS PAID BY SUCH MUNICIPALITY WHICH
25 SHALL BE OFFSET BY THE LOCAL CONTRIBUTION DUE PURSUANT TO SUBDIVISION
26 FOUR OF THIS SECTION.

27 S 12. Subdivision 4 of section 4410-a of the education law, as
28 amended by chapter 280 of the laws of 1994, is amended to read as
29 follows:

30 4. Local contribution. The municipality of residence shall be finan-
31 cially responsible for the local contribution which shall equal that
32 portion of the approved costs of services to a [foster care or homeless]
33 child WHO IS HOMELESS OR IN OUT-OF-HOME CARE or child in residential
34 care with a handicapping condition which would not be reimbursed pursu-
35 ant to the schedule set out in paragraph b of subdivision eleven of
36 section forty-four hundred ten of this [chapter] ARTICLE. The commis-
37 sioner shall certify to the comptroller the amount of the local contrib-
38 ution owed by each municipality to the state. The comptroller shall
39 deduct the amount of such local contribution first from any moneys due
40 the municipality pursuant to such section and then from any other moneys
41 due or to become due such municipality.

42 S 13. This act shall take effect immediately; provided, however that
43 the amendments to paragraphs a and a-1 of subdivision 1 of section 3209
44 of the education law made by section four of this act shall be subject
45 to the expiration and reversion of such paragraphs when upon such date
46 the provisions of section four-a of this act shall take effect.