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

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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:

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

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

B. FOR THE PURPOSES OF THIS SECTION, THE TERM "DYSLEXIA" SHALL MEAN A SPECIFIC LEARNING DISORDER THAT IS NEUROLOGICAL IN ORIGIN AND THAT IS 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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RECOGNITION AND BY POOR SPELLING AND DECODING ABILITIES NOT CONSISTENT WITH THE PERSON'S INTELLIGENCE, MOTIVATION, AND SENSORY CAPABILITIES, WHICH DIFFICULTIES TYPICALLY RESULT FROM A DEFICIT IN THE PHONOLOGICAL COMPONENT OF LANGUAGE.

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

(a) Obtain, review and evaluate all relevant information, including but not limited to that presented by the parent, person in parental relationship and teacher, pertinent to each child suspected of or identified as having a handicapping condition, including the results of a physical examination performed in accordance with sections nine hundred three, nine hundred four and nine hundred five of this chapter and, where determined to be necessary by a school psychologist, an appropriate psychological evaluation performed by a qualified private or school psychologist, and other appropriate assessments as necessary to ascertain the physical, mental, emotional and cultural-educational factors which may contribute to the suspected or identified handicapping condition, and all other school data which bear on the child's progress, including, where appropriate, observation of classroom performance. IF THE COMMITTEE OR SUBCOMMITTEE HAS REASON TO BELIEVE THAT THE HANDICAPPING CONDITION MAY INVOLVE DYSLEXIA, AS DEFINED IN PARAGRAPH B OF SUBDIVISION SEVEN OF SECTION THREE THOUSAND FOUR OF THIS CHAPTER, OR A RELATED DISORDER, THE CHILD SHALL BE EVALUATED AND TESTED ACCORDING TO CURRENT SCIENTIFIC UNDERSTANDING OF DYSLEXIA TO DETERMINE WHETHER THE CHILD HAS DYSLEXIA OR A RELATED DISORDER.

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

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

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

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

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

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

condition who is eligible for services during the months of July and August nineteen hundred eighty-nine pursuant to the provisions of subdivision six of section forty-four hundred ten of this article shall not be eligible to receive services pursuant to this paragraph during such months and (iv) a student with a handicapping condition who is eligible for services, including services during the months of July and August, pursuant to section forty-four hundred ten of this article shall not be eligible to receive services pursuant to this paragraph during the months of July and August.

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