

5557--A

2013-2014 Regular Sessions

I N S E N A T E

May 20, 2013

Introduced by Sen. FLANAGAN -- (at request of the State Education Department) -- read twice and ordered printed, and when printed to be committed to the Committee on Education -- recommitted to the Committee on Education in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to establishing Earth day; to amend the education law, in relation to mandate relief for school districts and certain other educational entities; to amend the education law, in relation to removing references to subcommittees on special education; to amend the education law, in relation to the provision of special education programs and services to students parentally placed in non-public schools through dual enrollment in the public schools; to amend the education law, in relation to eliminating the requirement that the commissioner of education make appointments to state-supported schools; to amend the education law, in relation to the committee on special education membership requirements; to amend the education law, in relation to transportation of students with disabilities parentally placed in a private school; to amend the education law, in relation to establishing that all school districts are approved evaluators of preschool students suspected of having a disability; to amend the education law, in relation to the statute of limitations for special education due process hearings; to amend the education law, in relation to the committee on preschool special education membership; to amend the education law, in relation to the selection of a preschool evaluator; to amend the education law, in relation to referrals to state adult service agencies for certain students with disabilities who have reached the age of 18; to amend the education law and the general municipal law, in relation to giving school districts or boards of cooperative educational services the option of advertising procurement bids in the state's opportunities newsletter; to amend the environmental conservation law, in relation to the state smart growth public infrastructure criteria; to amend the vehicle and traffic law, in relation to school omnibus signs complying

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

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with federal motor vehicle safety standards; to repeal subdivision 15 of section 353 of the executive law relating to the duties of the director of the division of veterans' affairs; to repeal clause (h) of subparagraph 3 of paragraph b of subdivision 1 of section 4402 of the education law relating to reports on certain children of Vietnam veterans; to repeal clause (d) of subparagraph 1 of paragraph b of subdivision 1 of section 4402 of the education law relating to subcommittees on special education; and to repeal clause (d-2) of subparagraph 3 of paragraph b of subdivision 1 of section 4402 of the education law relating to the requirement that boards of education develop plans and policies for appropriate declassification of students with disabilities

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

Section 1. Section 810 of the education law, as amended by chapter 616 of the laws of 1969 and subdivision 1 as amended by chapter 96 of the laws of 1978, is amended to read as follows:

S 810. [Conservation] EARTH day. [1. The last Friday in April each year is hereby made and declared to be known as Conservation day, and observed in accordance with the provisions of this chapter, except that for the year nineteen hundred seventy-eight, Conservation day shall be May third.

2. It shall be the duty of the authorities of every public school in this state to assemble the pupils in their charge on that day in the school building, or elsewhere, as they may deem proper, and to provide for and conduct (1) such exercises as shall tend to encourage the planting, protection and preservation of trees and shrubs, and an acquaintance with the best methods to be adopted to accomplish such results, and (2) such lectures, pictures or tours, as shall tend to increase the interest and knowledge of such pupils in the fish and wild life, soil and water of the state.

3. The commissioner of education may prescribe from time to time a course of exercises and instruction in the subjects hereinbefore mentioned, which shall be adopted and observed by the public school authorities on Conservation day. Upon receipt of copies of such course sufficient in number to supply all the schools under their supervision, the school authorities aforesaid shall promptly provide each of the schools under their charge with a copy, and cause it to be observed] ANNUALLY, IT SHALL BE THE DUTY OF THE AUTHORITIES OF EVERY PUBLIC SCHOOL IN THIS STATE TO OBSERVE EARTH DAY AS THEY MAY DEEM PROPER AND TO ENCOURAGE INSTRUCTION ON THE EARTH'S NATURAL ENVIRONMENT AS APPROPRIATE.

S 2. Section 3035 of the education law is amended by adding a new subdivision 3-b to read as follows:

3-B. UPON REQUEST FROM A PROSPECTIVE EMPLOYEE WHO HAS BEEN CLEARED BY THE COMMISSIONER OF MOTOR VEHICLES PURSUANT TO SECTION FIVE HUNDRED NINE-CC OR SECTION TWELVE HUNDRED TWENTY-NINE-D OF THE VEHICLE AND TRAFFIC LAW, THE DEPARTMENT OF MOTOR VEHICLES SHALL BE AUTHORIZED TO FORWARD A COPY OF SUCH INDIVIDUAL'S CRIMINAL HISTORY RECORD AND SUCH INDIVIDUAL'S FINGERPRINTS TO THE COMMISSIONER FOR PURPOSES OF CONDUCTING A CRIMINAL HISTORY RECORD CHECK PURSUANT TO THIS SECTION. FURTHERMORE, UPON NOTIFICATION THAT SUCH PROSPECTIVE EMPLOYEE HAS BEEN CLEARED FOR EMPLOYMENT BY THE COMMISSIONER PURSUANT TO THIS SECTION, THE DIVISION OF

1 CRIMINAL JUSTICE SERVICES SHALL HAVE THE AUTHORITY TO PROVIDE SUBSEQUENT
2 CRIMINAL HISTORY NOTIFICATIONS DIRECTLY TO THE COMMISSIONER.

3 S 3. Paragraph a of subdivision 14 of section 305 of the education
4 law, as amended by chapter 273 of the laws of 1999, is amended to read
5 as follows:

6 a. All contracts for the transportation of school children, all
7 contracts to maintain school buses owned or leased by a school district
8 that are used for the transportation of school children, all contracts
9 for mobile instructional units, and all contracts to provide, maintain
10 and operate cafeteria or restaurant service by a private food service
11 management company shall be subject to the approval of the commissioner,
12 who may disapprove a proposed contract if, in his opinion, the best
13 interests of the district will be promoted thereby. Except as provided
14 in paragraph e of this subdivision, all such contracts involving an
15 annual expenditure in excess of the amount specified for purchase
16 contracts in the bidding requirements of the general municipal law shall
17 be awarded to the lowest responsible bidder, which responsibility shall
18 be determined by the board of education or the trustee of a district,
19 with power hereby vested in the commissioner to reject any or all bids
20 if, in his opinion, the best interests of the district will be promoted
21 thereby and, upon such rejection of all bids, the commissioner shall
22 order the board of education or trustee of the district to seek, obtain
23 and consider new proposals. All proposals for such transportation, main-
24 tenance, mobile instructional units, or cafeteria and restaurant service
25 shall be in such form as the commissioner may prescribe. Advertisement
26 for bids shall be published in a newspaper or newspapers designated by
27 the board of education or trustee of the district having general circu-
28 lation within the district for such purpose OR IN THE STATE'S PROCURE-
29 MENT OPPORTUNITIES NEWSLETTER IN ACCORDANCE WITH ARTICLE FOUR-C OF THE
30 ECONOMIC DEVELOPMENT LAW. Such advertisement shall contain a statement
31 of the time when and place where all bids received pursuant to such
32 advertisement will be publicly opened and read either by the school
33 authorities or by a person or persons designated by them. All bids
34 received shall be publicly opened and read at the time and place so
35 specified. At least five days shall elapse between the first publication
36 of such advertisement and the date so specified for the opening and
37 reading of bids. The requirement for competitive bidding shall not apply
38 to an award of a contract for the transportation of pupils or a contract
39 for mobile instructional units OR THE PROVISION, MAINTENANCE AND OPERA-
40 TION OF CAFETERIA OR RESTAURANT SERVICE, if such award is based on an
41 evaluation of proposals in response to a request for proposals pursuant
42 to paragraph e of this subdivision. The requirement for competitive
43 bidding shall not apply to annual, biennial, or triennial extensions of
44 a contract nor shall the requirement for competitive bidding apply to
45 quadrennial or quinquennial year extensions of a contract involving
46 transportation of pupils, maintenance of school buses or mobile instruc-
47 tional units secured either through competitive bidding or through eval-
48 uation of proposals in response to a request for proposals pursuant to
49 paragraph e of this subdivision, when such extensions (1) are made by
50 the board of education or the trustee of a district, under rules and
51 regulations prescribed by the commissioner, and, (2) do not extend the
52 original contract period beyond five years from the date cafeteria and
53 restaurant service commenced thereunder and in the case of contracts for
54 the transportation of pupils, for the maintenance of school buses or for
55 mobile instructional units, that such contracts may be extended, except
56 that power is hereby vested in the commissioner, in addition to his

1 existing statutory authority to approve or disapprove transportation or
2 maintenance contracts, (i) to reject any extension of a contract beyond
3 the initial term thereof if he finds that amount to be paid by the
4 district to the contractor in any year of such proposed extension fails
5 to reflect any decrease in the regional consumer price index for the
6 N.Y., N.Y.-Northeastern, N.J. area, based upon the index for all urban
7 consumers (CPI-U) during the preceding twelve month period; and (ii) to
8 reject any extension of a contract after ten years from the date trans-
9 portation or maintenance service commenced thereunder, or mobile
10 instructional units were first provided, if in his opinion, the best
11 interests of the district will be promoted thereby. Upon such rejection
12 of any proposed extension, the commissioner may order the board of
13 education or trustee of the district to seek, obtain and consider bids
14 pursuant to the provisions of this section. The board of education or
15 the trustee of a school district electing to extend a contract as
16 provided herein, may, in its discretion, increase the amount to be paid
17 in each year of the contract extension by an amount not to exceed the
18 regional consumer price index increase for the N.Y., N.Y.-Northeastern,
19 N.J. area, based upon the index for all urban consumers (CPI-U), during
20 the preceding twelve month period, provided it has been satisfactorily
21 established by the contractor that there has been at least an equivalent
22 increase in the amount of his cost of operation, during the period of
23 the contract.

24 S 4. Paragraph e of subdivision 14 of section 305 of the education
25 law, as amended by chapter 464 of the laws of 1997, is amended to read
26 as follows:

27 e. Notwithstanding the provisions of any general, special or local law
28 or charter, a board of education or a trustee of a district, pursuant to
29 rules and regulations promulgated by the commissioner, may award a
30 contract for the transportation of pupils or a contract for mobile
31 instructional units OR FOR THE PROVISION, MAINTENANCE AND OPERATION OF
32 CAFETERIA OR RESTAURANT SERVICE BY A PRIVATE FOOD SERVICE MANAGEMENT
33 COMPANY involving an annual expenditure in excess of the amount speci-
34 fied for purchase contracts in the bidding requirements of the general
35 municipal law in compliance with the provisions of paragraph a of this
36 subdivision or subsequent to an evaluation of proposals submitted in
37 response to a request for proposals prepared by or for the board of
38 education or trustee of a district. A CONTRACT AWARDED THROUGH A REQUEST
39 FOR PROPOSALS SHALL BE AWARDED BASED ON BEST VALUE IN ACCORDANCE WITH
40 SECTION ONE HUNDRED THREE OF THE GENERAL MUNICIPAL LAW. The commission-
41 er, in addition to his existing statutory authority to approve or disap-
42 prove transportation contracts, may reject any award of a transportation
43 contract or a contract for mobile instructional units that is based on
44 an evaluation of proposals submitted in response to a request for
45 proposals if he finds that (1) the contractor is not the most responsive
46 to the request for proposals, or (2) that the best interests of the
47 district will be promoted thereby.

48 S 5. Subdivision 14 of section 305 of the education law is amended by
49 adding a new paragraph g to read as follows:

50 G. NOTWITHSTANDING THE PROVISIONS OF THIS SUBDIVISION, SECTION ONE
51 HUNDRED THREE OF THE GENERAL MUNICIPAL LAW, OR ANY OTHER PROVISION OF
52 LAW TO THE CONTRARY, THE BOARD OF EDUCATION SHALL BE AUTHORIZED TO ENTER
53 INTO A PIGGYBACK CONTRACT WITH ANOTHER SCHOOL DISTRICT THAT TRANSPORTS
54 STUDENTS PURSUANT TO A CONTRACT WITH A PRIVATE TRANSPORTATION CONTRAC-
55 TOR, PROVIDED THAT THE BOARD FINDS THAT THE CONTRACT COST IS APPROPRIATE
56 AND ENTRY INTO A PIGGYBACK CONTRACT WILL RESULT IN A COST SAVINGS TO THE

1 SCHOOL DISTRICT. FOR PURPOSES OF THIS PARAGRAPH, A "PIGGYBACK CONTRACT"
2 MEANS A CONTRACT FOR THE TRANSPORTATION OF STUDENTS THAT: (1) PROVIDES
3 TRANSPORTATION TO A LOCATION OUTSIDE THE STUDENTS' SCHOOL DISTRICT OF
4 RESIDENCE TO WHICH ANOTHER SCHOOL DISTRICT IS ALREADY PROVIDING TRANS-
5 PORTATION TO ITS OWN STUDENTS THROUGH AN EXISTING CONTRACT WITH A
6 PRIVATE TRANSPORTATION CONTRACTOR, OTHER THAN A COOPERATIVELY BID
7 CONTRACT; (2) IS ENTERED INTO BY THE PRIVATE TRANSPORTATION CONTRACTOR
8 AND EACH SCHOOL DISTRICT INVOLVED; AND (3) PROVIDES FOR TRANSPORTATION
9 IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF SUCH EXISTING TRANSPORTA-
10 TION CONTRACT.

11 S 6. Subdivision 2 of section 103 of the general municipal law, as
12 amended by section 4 of chapter 608 of the laws of 2011, is amended to
13 read as follows:

14 2. Advertisement for bids and offers shall be published in the offi-
15 cial newspaper or newspapers, if any, or otherwise in a newspaper or
16 newspapers designated for such purpose OR IN THE STATE'S PROCUREMENT
17 OPPORTUNITIES NEWSLETTER IN ACCORDANCE WITH ARTICLE FOUR-C OF THE
18 ECONOMIC DEVELOPMENT LAW. Such advertisement shall contain a statement
19 of the time when and place where all bids received pursuant to such
20 notice will be publicly opened and read and where the identity of all
21 offerers will be publicly disclosed, and the designation of the receiv-
22 ing device if the political subdivision or district has authorized the
23 receipt of bids and offers in an electronic format. Such board or agency
24 may by resolution designate any officer or employee to open the bids and
25 offers at the time and place specified in the notice. Such designee
26 shall make a record of such bids and offers in such form and detail as
27 the board or agency shall prescribe and present the same at the next
28 regular or special meeting of such board or agency. All bids received
29 shall be publicly opened and read at the time and place so specified and
30 the identity of all offerers shall be publicly disclosed at the time and
31 place so specified. At least five days shall elapse between the first
32 publication of such advertisement and the date so specified for the
33 opening and reading of bids and offers.

34 S 7. Subdivision 2 of section 103 of the general municipal law, as
35 amended by section 5 of chapter 608 of the laws of 2011, is amended to
36 read as follows:

37 2. Advertisement for bids and offers shall be published in the offi-
38 cial newspaper or newspapers, if any, or otherwise in a newspaper or
39 newspapers designated for such purpose OR IN THE STATE'S PROCUREMENT
40 OPPORTUNITIES NEWSLETTER IN ACCORDANCE WITH ARTICLE FOUR-C OF THE
41 ECONOMIC DEVELOPMENT LAW. Such advertisement shall contain a statement
42 of the time when and place where all bids received pursuant to such
43 notice will be publicly opened and read and where the identity of all
44 offerers will be publicly disclosed. Such board or agency may by resol-
45 ution designate any officer or employee to open the bids and offers at
46 the time and place specified in the notice. Such designee shall make a
47 record of such bids and offers in such form and detail as the board or
48 agency shall prescribe and present the same at the next regular or
49 special meeting of such board or agency. All bids received shall be
50 publicly opened and read at the time and place so specified and the
51 identity of all offerers shall be publicly disclosed at the time and
52 place so specified. At least five days shall elapse between the first
53 publication of such advertisement and the date so specified for the
54 opening and reading of bids and offers.

1 S 8. Subdivision 1 of section 6-0107 of the environmental conservation
2 law, as added by chapter 433 of the laws of 2010, is amended to read as
3 follows:

4 1. In addition to meeting other criteria and requirements of law
5 governing approval, development, financing and state aid for the
6 construction of new or expanded public infrastructure or the recon-
7 struction thereof, no state infrastructure agency shall approve, under-
8 take, support or finance a public infrastructure project, including
9 providing grants, awards, loans or assistance programs, unless, to the
10 extent practicable, it is consistent with the relevant criteria speci-
11 fied in subdivision two of this section. NOTWITHSTANDING THE PROVISIONS
12 OF THIS SUBDIVISION OR ANY OTHER PROVISION OF THIS ARTICLE TO THE
13 CONTRARY, PROJECTS FOR THE RECONSTRUCTION, RENOVATION, REPAIR OR
14 IMPROVEMENT OF EXISTING PUBLIC SCHOOL FACILITIES OR EXISTING LIBRARY
15 FACILITIES, AND PROJECTS FOR THE CONSTRUCTION OF NEW OR EXPANDED PUBLIC
16 SCHOOL OR LIBRARY FACILITIES IN CITIES HAVING A POPULATION OF ONE
17 HUNDRED TWENTY-FIVE THOUSAND INHABITANTS OR MORE, SHALL NOT BE DEEMED
18 PUBLIC INFRASTRUCTURE PROJECTS SUBJECT TO THE REQUIREMENTS OF THIS ARTI-
19 CLE.

20 S 9. Subparagraph 1 of paragraph (b) and paragraphs (c) and (d) of
21 subdivision 20 of section 375 of the vehicle and traffic law, subpara-
22 graph 1 of paragraph (b) as amended by chapter 242 of the laws of 1992,
23 paragraph (c) as amended by chapter 96 of the laws of 1973 and paragraph
24 (d) as amended by chapter 567 of the laws of 1985, are amended to read
25 as follows:

26 (1) In addition to such signal lamps, two signs shall be conspicuously
27 displayed on the exterior of every such omnibus designating it as a
28 school omnibus by the use of the words "SCHOOL BUS" which shall be
29 painted or otherwise inscribed thereon in black letters. Such letters
30 shall be of uniform size, at least eight inches in height, and each
31 stroke of each letter shall be not less than one inch in width. The
32 background of each such sign shall be painted [the color known as
33 "national school bus chrome."] ON A BACKGROUND OF RETRO REFLECTIVE
34 NATIONAL SCHOOL BUS YELLOW MATERIAL. THE MATERIAL SHALL BE THE SAME
35 QUALITY AND TYPE AS FEDERAL MOTOR VEHICLE SAFETY STANDARDS REQUIRE FOR
36 THE MARKING OF EMERGENCY EXITS. For each such omnibus having a seating
37 capacity in excess of fifteen children, such signs shall be securely
38 mounted on top of such vehicle, one of which shall be affixed on the
39 front and one on the rear thereof. For each such omnibus having a seat-
40 ing capacity of not more than fifteen children, such signs shall be
41 securely mounted on top of such vehicle, one of which shall face the
42 front and one of which shall face the rear thereof. Each such sign shall
43 be visible and readable from a point at least two hundred feet distant.

44 (c) [In the event such vehicle is operated on a public highway during
45 the period between one-half hour after sunset and one-half hour before
46 sunrise, the signs required by paragraph (b) of this subdivision shall
47 be illuminated as to be visible from a point at least five hundred feet
48 distant.

49 (d)] Every such omnibus shall be equipped as provided in paragraphs
50 (a) and (b) of this subdivision, [and such signs shall be displayed and
51 illuminated in accordance with paragraphs (b) and (c) of this subdivi-
52 sion,] and such signal lamps shall be operated as provided in paragraph
53 (a) of this subdivision at all times when such omnibus shall be engaged
54 in transporting pupils to and from school or school activities or in
55 transporting children to and from child care centers maintained for
56 children of migrant farm and food processing laborers, or in transport-

1 ing children to and from camp or camp activities or transporting chil-
2 dren to and from religious services or instruction or transporting
3 persons with disabilities on any such omnibus used by any state facility
4 or not-for-profit agency licensed by the state.

5 S 10. Subdivision 15 of section 353 of the executive law is REPEALED.

6 S 11. The commissioner of education, in consultation with the office
7 of the state comptroller, shall conduct a study of the feasibility and
8 desirability of authorizing school districts and boards of cooperative
9 educational services to enter national credit card contracts as a cost-
10 saving measure, with appropriate safeguards. The commissioner of educa-
11 tion shall submit a report to the board of regents, the governor and the
12 legislature by no later than January 15, 2015, with recommendations on
13 whether and under what conditions such credit card contracts should be
14 authorized and identifying any legislative or regulatory changes that
15 would be needed to authorize such credit card contracts.

16 S 12. Subparagraph 2 of paragraph (b) of subdivision 4 of section
17 2590-b of the education law, as amended by chapter 345 of the laws of
18 2009, is amended to read as follows:

19 (2) advise and comment on the process of establishing committees
20 [and/or subcommittees] on special education in community school
21 districts pursuant to section forty-four hundred two of this chapter;

22 S 13. Paragraph (a) of subdivision 4 of section 2853 of the education
23 law, as amended by chapter 378 of the laws of 2007, is amended to read
24 as follows:

25 (a) For purposes of sections seven hundred one, seven hundred eleven,
26 seven hundred fifty-one and nine hundred twelve of this chapter, a char-
27 ter school shall be deemed a nonpublic school in the school district
28 within which the charter school is located. Special education programs
29 and services shall be provided to students with a disability attending a
30 charter school in accordance with the individualized education program
31 recommended by the committee [or subcommittee] on special education of
32 the student's school district of residence. The charter school may
33 arrange to have such services provided by such school district of resi-
34 dence or by the charter school directly or by contract with another
35 provider. Where the charter school arranges to have the school district
36 of residence provide such special education programs or services, such
37 school district shall provide services in the same manner as it serves
38 students with disabilities in other public schools in the school
39 district, including the provision of supplementary and related services
40 on site to the same extent to which it has a policy or practice of
41 providing such services on the site of such other public schools.

42 S 14. Paragraph (a) of subdivision 4 of section 2853 of the education
43 law, as added by chapter 4 of the laws of 1998, is amended to read as
44 follows:

45 (a) For purposes of sections seven hundred one, seven hundred eleven,
46 seven hundred fifty-one and nine hundred twelve of this chapter, a char-
47 ter school shall be deemed a nonpublic school in the school district
48 within which the charter school is located. Special education programs
49 and services shall be provided to students with a disability attending a
50 charter school in accordance with the individualized education program
51 recommended by the committee [or subcommittee] on special education of
52 the student's school district of residence. The charter school may
53 arrange to have such services provided by such school district of resi-
54 dence or by the charter school directly or by contract with another
55 provider.

1 S 15. Paragraph a of subdivision 1 and paragraph a and subparagraph 1
2 of paragraph b of subdivision 2 of section 3602-c of the education law,
3 paragraph a of subdivision 1 as amended by chapter 474 of the laws of
4 2004, paragraph a and subparagraph 1 of paragraph b of subdivision 2 as
5 amended by chapter 378 of the laws of 2007, are amended and a new para-
6 graph e is added to subdivision 2 to read as follows:

7 a. "Services" shall mean instruction in the areas of gifted pupils,
8 career education and education for students with disabilities, and coun-
9 seling, psychological and social work services related to such instruc-
10 tion provided during the regular school year for pupils enrolled in a
11 nonpublic school located in a school district, INCLUDING SPECIAL EDUCA-
12 TION PROGRAMS AND RELATED SERVICES AS DEFINED IN SUBDIVISION TWO OF
13 SECTION FORTY-FOUR HUNDRED ONE OF THIS CHAPTER OTHER THAN AN APPROVED
14 PRIVATE RESIDENTIAL OR NON-RESIDENTIAL SCHOOL FOR THE EDUCATION OF
15 STUDENTS WITH DISABILITIES, provided that such instruction is given to
16 pupils enrolled in the public schools of such district. SUCH TERM SHALL
17 ALSO INCLUDE EDUCATION FOR STUDENTS WITH DISABILITIES ENROLLED IN SUCH A
18 NONPUBLIC SCHOOL WHICH IS PROVIDED IN JULY AND AUGUST IN ACCORDANCE WITH
19 PARAGRAPH E OF SUBDIVISION TWO OF THIS SECTION.

20 a. Boards of education of all school districts of the state shall
21 furnish services to students who are residents of this state and who
22 attend nonpublic schools located in such school districts, upon the
23 written request of the parent or person in parental relation of any such
24 student. Such a request for career education or services to gifted
25 students shall be filed with the board of education of the school
26 district in which the parent or person in parental relation of the
27 student resides on or before the first day of June preceding the school
28 year for which the request is made. In the case of education for
29 students with disabilities, such a request shall be filed with the trus-
30 tees or board of education of the school district of location on or
31 before the first of [June] APRIL preceding the school year for which the
32 request is made[, or by July first, two thousand seven for the two thou-
33 sand seven--two thousand eight school year only,] FOR THOSE STUDENTS FOR
34 WHOM AN INDIVIDUALIZED EDUCATION SERVICE PROGRAM WAS DEVELOPED AND
35 IMPLEMENTED PURSUANT TO THIS SECTION PRIOR TO SUCH DATE, AND ON OR
36 BEFORE THE FIRST OF JUNE PRECEDING THE SCHOOL YEAR FOR WHICH THE REQUEST
37 IS MADE FOR THOSE STUDENTS WHO WILL BE FIRST RECEIVING EDUCATION FOR
38 STUDENTS WITH DISABILITIES PURSUANT TO THIS SECTION IN THE SCHOOL YEAR
39 FOR WHICH THE REQUEST IS MADE OR FOR WHOM AN INDIVIDUALIZED EDUCATION
40 SERVICE PROGRAM IS FIRST DEVELOPED AND IMPLEMENTED ON OR AFTER APRIL
41 FIRST AND ON OR BEFORE JUNE FIRST; provided that where a student is
42 first identified as a student with a disability after the first day of
43 June preceding the school year for which the request is made, [or thirty
44 days after the chapter of the laws of two thousand seven which amended
45 this paragraph, takes effect where applicable, and prior to the first
46 day of April of such current school year,] such request shall be submit-
47 ted within thirty days after AN INDIVIDUALIZED EDUCATION SERVICE PROGRAM
48 IS DEVELOPED FOR such student [is first identified. For students first
49 identified after March first of the current school year, any such
50 request for education for students with disabilities in the current
51 school year that is submitted on or after April first of such current
52 school year, shall be deemed a timely request for such services in the
53 following school year].

54 (1) For the purpose of obtaining education for students with disabili-
55 ties, as defined in paragraph d of subdivision one of this section, such
56 request shall be reviewed by the committee on special education of the

1 school district of location, which shall develop an individualized
2 education service program for the student based on the student's indi-
3 vidual needs in the same manner and with the same contents as an indi-
4 vidualized education program, EXCEPT AS OTHERWISE PROVIDED IN THIS
5 SUBPARAGRAPH. The committee on special education shall assure that
6 special education programs and services are made available to students
7 with disabilities attending nonpublic schools located within the school
8 district on an equitable basis, as compared to special education
9 programs and services provided to other students with disabilities
10 attending public or nonpublic schools located within the school
11 district, EXCEPT THAT THERE SHALL BE NO ENTITLEMENT UNDER THIS SECTION
12 TO THE PROVISION OF A SPECIAL CLASS OR INTEGRATED CO-TEACHING SERVICES,
13 AS SUCH TERMS ARE DEFINED IN THE REGULATIONS OF THE COMMISSIONER, BY THE
14 SCHOOL DISTRICT OF LOCATION FOR ALL OR PART OF THE SCHOOL DAY. Review of
15 the recommendation of the committee on special education may be obtained
16 by the parent or person in parental relation of the pupil pursuant to
17 the provisions of section forty-four hundred four of this chapter;
18 PROVIDED THAT A DUE PROCESS COMPLAINT, OTHER THAN A DUE PROCESS
19 COMPLAINT RELATING TO CHILD FIND REQUIREMENTS BROUGHT PURSUANT TO PARA-
20 GRAPH C OF THIS SUBDIVISION, SUBMITTED ON OR AFTER SEPTEMBER FIRST, TWO
21 THOUSAND TWELVE SHALL BE SUBMITTED TO MEDIATION PURSUANT TO SECTION
22 FORTY-FOUR HUNDRED FOUR-A OF THIS CHAPTER AND AT LEAST ONE MEDIATION
23 SESSION SHALL BE HELD PRIOR TO MAKING A REQUEST FOR AN IMPARTIAL HEARING
24 IN ACCORDANCE WITH A TIMELINE PRESCRIBED BY THE COMMISSIONER.

25 E. A NONPUBLIC SCHOOL STUDENT WHOSE DISABILITY IS SEVERE ENOUGH TO
26 EXHIBIT THE NEED FOR A STRUCTURED LEARNING ENVIRONMENT OF TWELVE MONTHS
27 DURATION TO MAINTAIN DEVELOPMENTAL LEVELS SHALL BE ELIGIBLE TO RECEIVE
28 SPECIAL EDUCATION PROGRAMS AND SERVICES IN JULY AND AUGUST IN ACCORDANCE
29 WITH THE INDIVIDUALIZED EDUCATION SERVICE PROGRAM DEVELOPED BY THE
30 COMMITTEE ON SPECIAL EDUCATION OF THE SCHOOL DISTRICT OF LOCATION AND
31 THE PROVISIONS OF SECTION FORTY-FOUR HUNDRED EIGHT OF THIS CHAPTER.
32 PROVIDED, HOWEVER, THAT DURING A JULY/AUGUST SPECIAL EDUCATION PROGRAM,
33 A NONPUBLIC SCHOOL STUDENT SHALL NOT BE ENTITLED PURSUANT TO THIS
34 SECTION TO PLACEMENT IN A SPECIAL CLASS OR INTEGRATED CO-TEACHING
35 SERVICES, AS SUCH TERMS ARE DEFINED IN THE REGULATIONS OF THE COMMIS-
36 SIONER. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE
37 SCHOOL DISTRICT OF LOCATION SHALL BE ELIGIBLE FOR STATE AID FOR SUCH
38 SERVICES EXCLUSIVELY PURSUANT TO SECTION FORTY-FOUR HUNDRED EIGHT OF
39 THIS CHAPTER.

40 S 16. Subdivision 7 of section 3602-c of the education law, as amended
41 by chapter 378 of the laws of 2007, is amended to read as follows:

42 7. a. Boards of education of districts providing career education and
43 gifted education services to non-resident students shall be entitled to
44 recover tuition from the district of residence of such students in
45 accordance with a formula promulgated by the commissioner by regulation.

46 b. In the case of the education for students with disabilities who are
47 residents of New York, a school district of location providing services
48 to non-resident students shall be entitled to recover costs of services,
49 costs of evaluation, and costs of committee on special education admin-
50 istration directly from the district of residence of the student if
51 consent of the parent or person in parental relation is obtained to
52 release of personally identifiable information concerning their child.
53 If such consent is not obtained, the school district of location shall
54 submit to the commissioner, in a form prescribed by the commissioner, a
55 claim for costs of services, evaluation costs, and committee on special
56 education administrative costs that includes the address of the

1 student's permanent residence, including the school district of resi-
2 dence, and a certification by officials of the nonpublic school attended
3 by the student that such address is the address of record of such
4 student. Upon certification by the commissioner of the amount of such
5 claim, the state comptroller shall deduct such amount from any state
6 funds which become due to such school district of residence.

7 c. The amount charged by the school district of location for services,
8 evaluation[, eligible due process costs] and committee on special educa-
9 tion administrative costs shall not exceed the actual cost to the school
10 district of location, after deducting any costs paid with federal or
11 state funds. The commissioner shall adopt regulations prescribing a
12 dispute resolution mechanism that will be available to a school district
13 of residence where such district disagrees with the amount of tuition or
14 costs charged by the school district of location.

15 D. THE COMMISSIONER SHALL ESTABLISH REGIONAL RATE METHODOLOGIES FOR
16 COMPUTING REGIONAL RATES TO DETERMINE ACTUAL COSTS FOR EACH OF THE
17 FOLLOWING CATEGORIES OF COSTS: (I) COSTS OF SERVICES, (II) EVALUATIONS
18 AND (III) SPECIAL EDUCATION ADMINISTRATION. THE SCHOOL DISTRICT OF
19 LOCATION MAY ELECT TO USE ANY SUCH REGIONAL RATE METHODOLOGIES IN EFFECT
20 FOR THE CURRENT SCHOOL YEAR FOR ALL NONRESIDENT STUDENTS RECEIVING
21 SERVICES PURSUANT TO SUBDIVISION TWO OF THIS SECTION IN SUCH SCHOOL YEAR
22 OR MAY OPT TO COMPUTE ACTUAL COSTS ON AN INDIVIDUAL STUDENT BASIS. IF
23 SUCH SCHOOL DISTRICT ELECTS TO USE REGIONAL RATES FOR SERVICES, IT SHALL
24 USE ALL REGIONAL RATES THEN IN EFFECT FOR BILLING SERVICES FOR ALL SUCH
25 NONRESIDENT STUDENTS AND IF SUCH SCHOOL DISTRICT ELECTS TO USE REGIONAL
26 RATES FOR BILLING EVALUATION OR SPECIAL EDUCATION ADMINISTRATION COSTS,
27 IT SHALL USE SUCH RATES FOR BILLING FOR SUCH COSTS FOR ALL SUCH NONRESI-
28 DENT STUDENTS. THE SCHOOL DISTRICT OF LOCATION MAY, HOWEVER, ELECT TO
29 USE REGIONAL RATES FOR ONE OR MORE CATEGORIES OF COSTS, AND NOT FOR THE
30 OTHER CATEGORIES.

31 E. NO CLAIM SHALL BE PAYABLE PURSUANT TO THIS SUBDIVISION UNLESS IT IS
32 SUBMITTED TO THE SCHOOL DISTRICT OF RESIDENCE, OR THE COMMISSIONER WHERE
33 APPLICABLE, WITHIN ONE YEAR OF THE END OF THE SCHOOL YEAR IN WHICH THE
34 COSTS WERE INCURRED, OR WITHIN SIXTY DAYS OF THE EFFECTIVE DATE OF THIS
35 PARAGRAPH, WHICHEVER IS LATER.

36 S 17. Paragraph e of subdivision 2 of section 4002 of the education
37 law, as added by chapter 563 of the laws of 1980, is amended to read as
38 follows:

39 e. Appointment by the commissioner to a state [or state-supported]
40 school in accordance with article [eighty-five,] eighty-seven or eight-
41 y-eight of this chapter OR ENROLLMENT IN A STATE-SUPPORTED SCHOOL IN
42 ACCORDANCE WITH ARTICLE EIGHTY-FIVE OF THIS CHAPTER.

43 S 18. Subdivision 2 of section 4201 of the education law is amended to
44 read as follows:

45 2. It shall be the duty of the commissioner:

46 a. To inquire into the organization of the several schools and the
47 methods of instruction employed therein.

48 b. To prescribe courses of study and methods of instruction that will
49 meet the requirements of the state for the education of [state] pupils
50 ATTENDING SUCH SCHOOLS.

51 c. [To make appointments of pupils to the several schools, to transfer
52 such pupils from one school to another as circumstances may require; to
53 cancel appointments for sufficient reason.

54 d.] To ascertain by a comparison with other similar institutions
55 whether any improvements in instruction and discipline can be made; and

1 for that purpose to appoint from time to time, suitable persons to visit
2 the schools.

3 [e] D. To suggest to the directors of such institutions and to the
4 legislature such improvements as he shall judge expedient.

5 [f] E. To make an annual report to the legislature on all of the
6 matters enumerated in this subdivision and particularly as to the condi-
7 tion of the schools, the improvement of the pupils, and their treatment
8 in respect to board and lodging.

9 S 19. Section 4203 of the education law is amended to read as follows:

10 S 4203. Persons eligible for [appointment] ENROLLMENT as pupils to
11 institutions for instruction of the deaf. All deaf children resident in
12 this state, of the age of three years and upwards and of suitable capac-
13 ity, and who shall have been resident in this state for one year imme-
14 diately preceding the application, or, if an orphan, whose nearest
15 friend shall have been resident in this state for one year immediately
16 preceding the application, shall be eligible [to appointment] FOR
17 ENROLLMENT as [state] pupils in one of the institutions for the instruc-
18 tion of the deaf of this state, authorized by law to receive such
19 pupils; provided, however, the foregoing requirement as to length of
20 residence in this state may be waived in the discretion of the commis-
21 sioner [of education]. PLACEMENT IN SUCH INSTITUTIONS SHALL BE RECOM-
22 MENDED BY THE COMMITTEE ON SPECIAL EDUCATION, OR COMMITTEE ON PRESCHOOL
23 SPECIAL EDUCATION WHERE APPLICABLE, OF THE SCHOOL DISTRICT RESPONSIBLE
24 FOR EDUCATING SUCH PUPIL, AND SUCH RECOMMENDATION MAY INCLUDE THE
25 PROVISION OF SPECIAL EDUCATION PROGRAMS AND SERVICES IN JULY OR AUGUST
26 IN ACCORDANCE WITH THE PROVISIONS OF PARAGRAPH A OF SUBDIVISION TWO OF
27 SECTION FORTY-FOUR HUNDRED TWO OF THIS CHAPTER.

28 S 20. Subdivision 3 of section 4204 of the education law, as amended
29 by section 51 of part A of chapter 58 of the laws of 2011, is amended to
30 read as follows:

31 3. The regular term of instruction of any such deaf pupil shall be
32 twelve years, or until the pupil shall have attained the age of eighteen
33 years before the expiration of twelve years from the beginning of such
34 term. The [commissioner] COMMITTEE ON SPECIAL EDUCATION may, in [his]
35 ITS discretion, [extend] RECOMMEND AN EXTENSION OF the term of any pupil
36 until [his] THE DATE OF THE SCHOOL YEAR IN WHICH THE PUPIL'S twenty-
37 first birthday OCCURS AND SUCH PUPIL'S ELIGIBILITY ENDS PURSUANT TO
38 SUBDIVISION FIVE OF SECTION FORTY-FOUR HUNDRED TWO OF THIS ARTICLE for
39 the purpose of pursuing or completing academic or vocational courses of
40 study. Such pupils must be recommended by the trustees of the institu-
41 tion in which they are in attendance before THE COMMITTEE RECOMMENDS
42 THAT such extension of time [is granted] BE MADE.

43 S 21. Section 4206 of the education law, as amended by chapter 53 of
44 the laws of 1990, is amended to read as follows:

45 S 4206. Persons eligible for [appointment] ENROLLMENT as pupils [to]
46 IN institutions for instruction of the blind. 1. All blind persons of
47 suitable age and capacity and who shall have been residents in this
48 state for one year immediately preceding the application or, if a minor,
49 whose parent or parents, or, if an orphan, whose nearest friend, shall
50 have been a resident in this state for one year immediately preceding
51 the application, shall be eligible for [appointment] ENROLLMENT as
52 [state] pupils to the New York Institute for Special Education in the
53 city of New York or the Lavelle School for the Blind in the city of New
54 York.

55 2. Blind babies and children of the age of fifteen years and under and
56 possessing the other qualifications prescribed in this article and

1 requiring kindergarten training or other special care and instruction,
2 shall be eligible for [appointment] ENROLLMENT as [state] pupils [by the
3 commissioner of education at his discretion] in any incorporated insti-
4 tution furnishing approved care, training and instruction for blind
5 babies and children, and any such child may be transferred to the New
6 York Institute for Special Education in the city of New York or the
7 Lavelle School for the Blind in the city of New York, to which he or she
8 would otherwise be eligible for [appointment] ENROLLMENT, upon arriving
9 at suitable age[, in the discretion of the commissioner of education].

10 3. [All such appointments shall be made by the commissioner of educa-
11 tion.] The requirement of this section as to length of residence in this
12 state may be waived in the discretion of the commissioner [of educa-
13 tion].

14 4. PLACEMENT IN SUCH INSTITUTIONS SHALL BE RECOMMENDED BY THE COMMIT-
15 TEE ON SPECIAL EDUCATION, OR COMMITTEE ON PRESCHOOL SPECIAL EDUCATION
16 WHERE APPLICABLE, OF THE SCHOOL DISTRICT RESPONSIBLE FOR EDUCATING SUCH
17 PUPIL, AND SUCH RECOMMENDATION MAY INCLUDE THE PROVISION OF SPECIAL
18 EDUCATION PROGRAMS AND SERVICES IN JULY OR AUGUST IN ACCORDANCE WITH THE
19 PROVISIONS OF PARAGRAPH A OF SUBDIVISION TWO OF SECTION FORTY-FOUR
20 HUNDRED TWO OF THIS CHAPTER.

21 S 22. Subdivisions 3 and 4 of section 4207 of the education law, as
22 amended by section 54 of part A of chapter 58 of the laws of 2011, are
23 amended to read as follows:

24 3. The regular term of instruction of any such blind pupil in the New
25 York Institute for Special Education shall be eight years. The [commis-
26 sioner] COMMITTEE ON SPECIAL EDUCATION OF THE SCHOOL DISTRICT RESPONSI-
27 BLE FOR THE EDUCATION OF THE PUPIL, WITH THE CONSENT OF THE TRUSTEES OF
28 THE NEW YORK INSTITUTE FOR SPECIAL EDUCATION, may in [his] ITS
29 discretion [extend] RECOMMEND THE EXTENSION OF the term of any pupil for
30 a period not exceeding three years. It shall also be lawful for the
31 [commissioner] COMMITTEE to continue such pupils [as state pupils] for
32 an additional period of three years for the purpose of pursuing or
33 completing a course of high school study[; such pupils must be recom-
34 mended by the trustees of the New York Institute for Special Education
35 before such extension is granted].

36 4. The term of appointment for blind babies and children of the age of
37 fifteen years and under received into any institution in accordance with
38 this article shall be at the discretion of the [commissioner] THE
39 COMMITTEE ON SPECIAL EDUCATION OR PRESCHOOL COMMITTEE ON SPECIAL EDUCA-
40 TION OF THE SCHOOL DISTRICT RESPONSIBLE FOR THE EDUCATION OF THE STUDENT
41 AND THE TRUSTEES OF THE NEW YORK INSTITUTE FOR SPECIAL EDUCATION.

42 S 23. Section 4213 of the education law, as added by chapter 496 of
43 the laws of 1986, is amended to read as follows:

44 S 4213. Other persons eligible for [appointment] ENROLLMENT. In
45 accordance with the provisions of the charter of the New York Institute
46 for Special Education, and amendments thereto, as issued by the board of
47 regents, children with [handicapping conditions] DISABILITIES, other
48 than [handicapping conditions] DISABILITIES which would establish eligi-
49 bility for [appointment] ENROLLMENT to the schools enumerated in this
50 article, shall be eligible for [appointment] ENROLLMENT to the New York
51 Institute for Special Education as [state] pupils. The provisions of
52 this article shall apply but not necessarily be limited to the [appoint-
53 ment] ENROLLMENT, education, maintenance and support of such pupils.
54 Such pupils eligible for [appointment] ENROLLMENT, pursuant to this
55 section, shall be persons over five and under twenty-one years of age
56 who have not received a high school diploma.

1 S 24. Paragraph d of subdivision 2 of section 4401 of the education
2 law, as amended by chapter 53 of the laws of 1990, is amended to read as
3 follows:

4 d. Appointment by the commissioner to a state school in accordance
5 with article eighty-seven or eighty-eight of this chapter or ENROLLMENT
6 IN a state-supported school in accordance with article eighty-five of
7 this chapter.

8 S 25. Subparagraph 2 of paragraph b of subdivision 1 of section 4402
9 of the education law, as amended by chapter 352 of the laws of 2005, is
10 amended to read as follows:

11 (2) Such committees [or subcommittees] shall review at least annually,
12 the status of each student with a disability and each student thought to
13 be disabled who is identified pursuant to paragraph a of this subdivi-
14 sion. Such review shall consider the educational progress and achieve-
15 ment of the student with a disability and the student's ability to
16 participate in instructional programs in regular education.

17 S 26. Subparagraph 2 of paragraph b of subdivision 1 of section 4402
18 of the education law, as amended by chapter 82 of the laws of 1995, is
19 amended to read as follows:

20 (2) Such committees [or subcommittees] shall identify, review and
21 evaluate at least annually, the status of each child with a [handicap-
22 ping condition] DISABILITY and each child thought to [be handicapped]
23 HAVE A DISABILITY who resides within the school district. Such review
24 shall consider the educational progress and achievement of the child
25 with a [handicapping condition] DISABILITY and the child's ability to
26 participate in instructional programs in regular education.

27 S 27. Subparagraph 2 of paragraph b of subdivision 2 of section 4402
28 of the education law, as amended by chapter 391 of the laws of 1989, is
29 amended to read as follows:

30 (2) The board shall select the most reasonable and appropriate special
31 service or program for such children from those programs specified in
32 paragraphs a, b, c, D WITH RESPECT TO STATE SUPPORTED SCHOOLS, e, f, g,
33 h, i, k, l and m of subdivision two of section forty-four hundred one of
34 this article upon receipt of the recommendation of the committee on
35 special education. All contracts with schools pursuant to the provisions
36 of paragraphs d, e, f, g, h, l and m of subdivision two of section
37 forty-four hundred one of this article shall be subject to the approval
38 of the commissioner. All contracts under paragraph c of subdivision two
39 of section forty-four hundred one OF THIS ARTICLE shall be made in
40 accordance with the provisions of subdivision four of section nineteen
41 hundred fifty of this chapter. No child shall be placed in a residential
42 school nor shall a board recommend placement in a residential facility
43 specified in paragraph j of subdivision two of section forty-four
44 hundred one OF THIS ARTICLE unless there is no appropriate nonresiden-
45 tial school available consistent with the needs of the child. The board
46 shall provide written notice of its determination to the parent or legal
47 guardian of such child. If the determination of the board of education
48 is not consistent with the recommendations of the committee on special
49 education, such notice shall include the statement of the reasons for
50 such determination which shall identify the factors considered by the
51 committee on special education in its evaluation.

52 S 28. The opening paragraph of subparagraph 3 and subparagraph 3-a of
53 paragraph b of subdivision 1 of section 4402 of the education law, the
54 opening paragraph of subparagraph 3 as amended by chapter 53 of the laws
55 of 1991 and subparagraph 3-a as added by chapter 630 of the laws of
56 2008, are amended to read as follows:

1 The committee [or when applicable the subcommittee] shall:

2 (3-a) The members of the committee [or subcommittee] may compile a
3 list of appropriate and/or helpful services that may be available
4 outside of the school setting to provide the parents or person in
5 parental relation of a child with a disability with such information.
6 Such list shall clearly state that these services are in addition to
7 services supplied by the school district and will not be paid for by the
8 school district. Any member of a committee [or subcommittee] or his or
9 her respective school district who, acting reasonably and in good faith,
10 provides such information shall not be liable for such action.

11 S 29. Clause (h) of subparagraph 3 of paragraph b of subdivision 1 of
12 section 4402 of the education law is REPEALED.

13 S 30. Subdivisions 8 and 9 of section 4403 of the education law, as
14 amended by chapter 273 of the laws of 1986, are amended to read as
15 follows:

16 8. To develop and distribute a handbook for parents of [handicapped]
17 children WITH DISABILITIES and the members of committees [and subcommit-
18 tees] on special education, which handbook shall explain, in layman
19 terms, the financial and educational obligations of the state, the coun-
20 ty or city, the home school district, the committee on special educa-
21 tion, and the parent or legal guardian of a [handicapped] child WITH A
22 DISABILITY, the special services or programs available pursuant to this
23 article, and the legal procedures available to an aggrieved parent or
24 legal guardian of a [handicapped] child WITH A DISABILITY.

25 9. To make provision by regulation of the commissioner to assure the
26 confidentiality of any personally identifiable data, information, and
27 records collected or maintained by the state department of education or
28 any school district, including a committee [or subcommittee] on special
29 education, and the officers, employees or members thereof, pursuant to
30 or in furtherance of the purposes of this article, and shall establish
31 procedures upon which any such personally identifiable data, informa-
32 tion, or records may be disclosed.

33 S 31. Subdivision 16 of section 4403 of the education law, as amended
34 by section 4 of part E of chapter 501 of the laws of 2012, is amended to
35 read as follows:

36 16. Commencing with the nineteen hundred eighty-seven--eighty-eight
37 school year, to provide for instruction during the months of July and
38 August of students with [handicapping conditions] DISABILITIES who have
39 received state appointments pursuant to article [eighty-five,] eighty-
40 seven or eighty-eight of this chapter, and whose [handicapping condi-
41 tions, in the judgment of the commissioner,] DISABILITIES are severe
42 enough to exhibit the need for a structured learning environment of
43 twelve months duration to maintain developmental levels, by making such
44 appointments for twelve months; provided that the initial term of
45 appointment of a student with a [handicapping condition] DISABILITY who
46 is the minimum age eligible for such a state appointment shall not
47 commence during the months of July or August.

48 S 32. The opening paragraph and clauses (a), (b) and (c) of subpara-
49 graph 1 of paragraph b of subdivision 1 of section 4402 of the education
50 law, the opening paragraph and clauses (a) and (c) as amended by chapter
51 311 of the laws of 1999, subclause (viii) of clause (a) as amended by
52 chapter 194 of the laws of 2004, clause (b) as amended by section 1 of
53 chapter 276 of the laws of 2012 and the closing paragraph of clause (b)
54 as amended by chapter 378 of the laws of 2007, are amended to read as
55 follows:

1 The board of education or trustees of each school district shall
2 establish committees [and/or subcommittees] on special education as
3 necessary to ensure timely evaluation and placement of pupils. The board
4 of education of the city school district of the city of New York, shall
5 establish at least one committee on special education in each of its
6 community school districts, provided that appointments to the community
7 school district committees shall be made upon the approval of the commu-
8 nity school board except that the board of education of the city school
9 district of the city of New York, may establish one committee to serve
10 more than one community school district, in which case, appointments
11 thereto shall be made upon the joint approval of the affected community
12 school boards; provided, however, that prior to such consolidation, the
13 board shall consider the relative caseload of the committee on special
14 education in each affected community school district, including but not
15 limited to the following factors: the number of students evaluated by
16 such committee; the number of referrals to special education in such
17 community school district; the ability to comply with mandated paperwork
18 and timelines; and other issues which the board deems pertinent.

19 (a) Such committees shall be composed of at least the following
20 members: (i) the parents or persons in parental relationship to the
21 student; (ii) one regular education teacher of the student whenever the
22 student is or may be participating in the regular education environment;
23 (iii) one special education teacher of the student, or, if appropriate,
24 a special education provider of the student; (iv) a school psychologist
25 WHERE THE PURPOSE OF THE METING IS TO DETERMINE A STUDENT'S INITIAL
26 ELIGIBILITY FOR SPECIAL EDUCATION; (v) a representative of such school
27 district who is qualified to provide or administer or supervise special
28 education and is knowledgeable about the general curriculum and the
29 availability of resources of the school district; (vi) an individual who
30 can interpret the instructional implications of evaluation results;
31 (vii) [a school physician; (viii)] an additional parent, residing in the
32 school district or a neighboring school district, of a student with a
33 disability, of a student who has been declassified and is no longer
34 eligible for an individualized education program (IEP), or a parent of a
35 disabled child who has graduated, for a period of five years beyond the
36 student's declassification or graduation, provided such parent shall not
37 be employed by or under contract with the school district, and provided
38 further that such additional parent shall not be a required member [if]
39 UNLESS the parents, THE STUDENT OR A MEMBER OF THE COMMITTEE ON SPECIAL
40 EDUCATION request that such additional parent member [not] participate
41 IN ACCORDANCE WITH CLAUSE (B) OF THIS SUBPARAGRAPH; [(ix)] (VIII) such
42 other persons having knowledge or special expertise regarding the
43 student as the school district or the parents or persons in parental
44 relationship to the student shall designate, to the extent required
45 under federal law; and [(x)] (IX) if appropriate, the student.

46 (b) In determining the composition of such committee pursuant to
47 clause (a) of this subparagraph, a school district may determine that a
48 member appointed pursuant to one of subclause (ii), (iii), (iv), (v) or
49 [(ix)] (VIII) of clause (a) of this subparagraph also fulfills the
50 requirement of subclause (vi) of clause (a) of this subparagraph of a
51 member who is an individual who can interpret the instructional impli-
52 cations of evaluation results where such individuals are determined by
53 the school district to have the knowledge and expertise to do so and/or
54 that a member appointed pursuant to subclause (iii) or (iv) of clause
55 (a) of this subparagraph also fulfills the requirement of subclause (v)
56 of clause (a) of this subparagraph of a member who is a representative

1 of the school district. The regular education teacher of the student
2 shall participate in the development, review and revision of the indi-
3 vidualized education program for the student, to the extent required
4 under federal law. [The school physician need not be in attendance at
5 any meeting of the committee on special education unless specifically
6 requested in writing, at least seventy-two hours prior to such meeting
7 by the parents or other person in parental relation to the student in
8 question, the student, or a member of the committee on special educa-
9 tion. The parents or persons in parental relation of the student in
10 question shall receive proper written notice of their right to have the
11 school physician attend the meetings of the committee on special educa-
12 tion upon referral of said student to the committee on special education
13 or whenever such committee plans to modify or change the identification,
14 evaluation or educational placement of the student.] The additional
15 parent need not be in attendance at any meeting of the committee on
16 special education unless specifically requested in writing, at least
17 seventy-two hours prior to such meeting by the parents or other person
18 in parental relation to the student in question, the student, or a
19 member of the committee on special education. The parents or persons in
20 parental relation of the student in question shall receive proper writ-
21 ten notice of their right to have an additional parent attend any meet-
22 ing of the committee regarding the student along with a statement,
23 prepared by the department, explaining the role of having the additional
24 parent attend the meeting. The committee shall invite the appropriate
25 professionals most familiar with a student's disability or disabilities
26 to attend any meeting concerning the educational program for such
27 student. Except as otherwise provided in this clause or clause (b-1) or
28 (b-2) of this subparagraph, all members of such committee shall attend
29 meetings of the committee on special education.

30 Members of such committee shall serve at the pleasure of such board
31 and members who are neither employees of nor under contract with such
32 district shall serve without compensation except that such members shall
33 be entitled to a per diem to defray expenses incurred in such service,
34 provided, however, that any expense incurred shall be deemed an aidable
35 operating expense for purposes of state aid.

36 (c) Districts not having available personnel may share the services of
37 a local committee on special education with another school district or
38 contract with a board of cooperative educational services for such
39 personnel pursuant to regulations of the commissioner. [A district
40 having a subcommittee on special education may share the services of a
41 local committee on special education with another school district,
42 provided that a representative of such school district who is qualified
43 to provide or administer or supervise special education and is know-
44 ledgeable about the general curriculum and the availability of resources
45 of the school district shall be a member of such committee when it
46 convenes on behalf of a student who is a resident of such district.]

47 S 33. Clause (b) of subparagraph 1 of paragraph b of subdivision 1 of
48 section 4402 of the education law, as amended by section 2 of chapter
49 276 of the laws of 2012, is amended to read as follows:

50 (b) In determining the composition of such committee pursuant to
51 clause (a) of this subparagraph, a school district may determine that a
52 member appointed pursuant to one of subclause (ii), (iii), (iv), (v) or
53 [(ix)] (VIII) of clause (a) of this subparagraph also fulfills the
54 requirement of subclause (vi) of clause (a) of this subparagraph of a
55 member who is an individual who can interpret the instructional impli-
56 cations of evaluation results where such individuals are determined by

1 the school district to have the knowledge and expertise to do so and/or
2 that a member appointed pursuant to subclause (iii) or (iv) of clause
3 (a) of this subparagraph also fulfills the requirement of subclause (v)
4 of clause (a) of this subparagraph of a member who is a representative
5 of the school district. The regular education teacher of the student
6 shall participate in the development, review and revision of the indi-
7 vidualized education program for the student, to the extent required
8 under federal law. [The school physician need not be in attendance at
9 any meeting of the committee on special education unless specifically
10 requested in writing, at least seventy-two hours prior to such meeting
11 by the parents or other person in parental relationship to the student
12 in question, the student, or a member of the committee on special educa-
13 tion. The parents or persons in parental relationship of the student in
14 question shall receive proper written notice of their right to have the
15 school physician attend the meetings of the committee on special educa-
16 tion upon referral of said student to the committee on special education
17 or whenever such committee plans to modify or change the identification,
18 evaluation or educational placement of the student. The additional
19 parent need not be in attendance at any meeting of the committee on
20 special education unless specifically requested in writing, at least
21 seventy-two hours prior to such meeting by the parents or other person
22 in parental relation to the student in question, the student, or a
23 member of the committee on special education. The parents or persons in
24 parental relation of the student in question shall receive proper writ-
25 ten notice of their right to have an additional parent attend any meet-
26 ing of the committee regarding the student along with a statement,
27 prepared by the department, explaining the role of having the additional
28 parent attend the meeting.] The committee shall invite the appropriate
29 professionals most familiar with a student's disability or disabilities
30 to attend any meeting concerning the educational program for such
31 student. Members of such committee shall serve at the pleasure of such
32 board and members who are neither employees of nor under contract with
33 such district shall serve without compensation except that such members
34 shall be entitled to a per diem to defray expenses incurred in such
35 service, provided, however, that any expense incurred shall be deemed an
36 aidable operating expense for purposes of state aid.

37 S 34. Clause (d) of subparagraph 1 of paragraph b of subdivision 1 of
38 section 4402 of the education law is REPEALED.

39 S 35. Clause (d-2) of subparagraph 3 of paragraph b of subdivision 1
40 of section 4402 of the education law is REPEALED.

41 S 36. Subparagraphs 5 and 7 of paragraph b of subdivision 1 of section
42 4402 of the education law, subparagraph 5 as amended by chapter 256 of
43 the laws of 1988 and subparagraph 7 as amended by chapter 194 of the
44 laws of 1991, are amended to read as follows:

45 (5) The committee on special education or, in the case of a state
46 operated school, the multidisciplinary team shall [provide written
47 notice that a child who is placed in those residential programs speci-
48 fied in paragraphs d, g, h and l of subdivision two of section forty-
49 four hundred one of this article is not entitled to receive tuition free
50 educational services after the age of twenty-one, the receipt of a high
51 school diploma or the time described in subdivision five of this
52 section. Such written notice shall be provided to the child and to the
53 parents or legal guardian of such child when such child attains the age
54 of eighteen or, if such child is over the age of eighteen when placed in
55 such a residential program, at the time of placement. Upon the first
56 annual review after the age of fifteen of a child who is receiving non-

1 residential special services or programs as specified in paragraph a, b,
2 c, d, e, f, i, j, l or m of subdivision two of section forty-four
3 hundred one of this article, or is receiving special services or
4 programs in a day program at the human resources school; is receiving
5 such special services or programs one hundred per centum of the school
6 day; is receiving individualized attention or intervention because of
7 intensive management needs or a severe handicap; and, as determined by
8 the committee on special education or multidisciplinary team pursuant to
9 regulations promulgated by the commissioner, may need adult services
10 from the office of mental health, office of mental retardation and
11 developmental disabilities, the state department of social services, a
12 social services district, or the state education department, the commit-
13 tee or multidisciplinary team shall provide to such child's parent or
14 guardian, and if such child is eighteen years of age or older, to the
15 child, written notice that such child is not entitled to receive tuition
16 free educational services after the receipt of a high school diploma,
17 the age of twenty-one or the time described in subdivision five of this
18 section.] NOT LATER THAN THE ANNUAL REVIEW PRIOR TO THE EIGHTEENTH
19 BIRTHDAY OF A STUDENT WITH A DISABILITY WHO IS PLACED IN A RESIDENTIAL
20 PROGRAM BY THE COMMITTEE OR MULTIDISCIPLINARY TEAM, OR A STUDENT WITH A
21 DISABILITY WHO IS PLACED IN A DAY PROGRAM BUT THE COMMITTEE OR MULTIDIS-
22 CIPLINARY TEAM HAS DETERMINED THAT THE STUDENT IT LIKELY TO REQUIRE
23 ADULT RESIDENTIAL SERVICES, WITH THE CONSENT OF THE PARENTS, NOTIFY AND
24 INVITE A REPRESENTATIVE OF THE OFFICE OF MENTAL HEALTH, OFFICE FOR
25 PEOPLE WITH DEVELOPMENTAL DISABILITIES, OR THE STATE EDUCATION DEPART-
26 MENT, AS APPROPRIATE, TO PARTICIPATE IN THE COMMITTEE ON SPECIAL EDUCA-
27 TION MEETING FOR THE DEVELOPMENT OF A RECOMMENDATION FOR ADULT SERVICES
28 PURSUANT TO SECTION 7.37 OR 13.37 OF THE MENTAL HYGIENE LAW, SECTION
29 THREE HUNDRED NINETY-EIGHT-C OF THE SOCIAL SERVICES LAW OR SECTION
30 FORTY-FOUR HUNDRED THREE OF THIS ARTICLE. THE COMMITTEE OR MULTIDISCI-
31 PLINARY TEAM SHALL GIVE THE PARENT OR GUARDIAN OF THE CHILD, THE OPPOR-
32 TUNITY TO CONSENT IN WRITING TO THE RELEASE OF RELEVANT INFORMATION TO
33 SUCH OTHER PUBLIC AGENCY OR AGENCIES, UPON REQUEST OF SUCH AGENCY OR
34 AGENCIES, FOR PURPOSES OF DETERMINING APPROPRIATENESS OF AN ADULT
35 PROGRAM FOR SUCH STUDENT.

36 (a) [Written notice given pursuant to this subparagraph shall describe
37 in detail the opportunity to consent to have the child's name and other
38 relevant information forwarded in a report to the commissioner of mental
39 health, commissioner of mental retardation and developmental disabili-
40 ties, commissioner of social services, or commissioner of education, or
41 their designees, for the purpose of determining whether such child will
42 likely need adult services and, if so, recommending possible adult
43 services.] For the purposes of this subparagraph "relevant information"
44 shall be defined as that information in the possession of and used by
45 the committee or the multidisciplinary team to ascertain the physical,
46 mental, emotional and cultural-educational factors which contribute to
47 the [child's handicapping condition] STUDENT'S DISABILITY, including but
48 not limited to: (i) results of physical and psychological examinations
49 performed by private and school district physicians and psychologists;
50 (ii) relevant information presented by the parent, guardian and teacher;
51 (iii) school data which bear on the [child's] STUDENT'S progress includ-
52 ing the [child's] STUDENT'S most recent individualized education
53 program; (iv) results of the most recent examinations and evaluations
54 performed pursuant to clause (d) of subparagraph three of this para-
55 graph; and (v) results of other suitable evaluations and examinations
56 possessed by the committee or multidisciplinary team. Nothing in this

1 subparagraph shall be construed to require any committee or multidisci-
2 plinary team to perform any examination or evaluation not otherwise
3 required by law.

4 (b) Upon consent obtained pursuant to [clause (c) of] this subpara-
5 graph, the committee or multidisciplinary team shall forward the
6 [child's] STUDENT'S name and other relevant information in a report to
7 the [commissioner of mental health, commissioner of mental retardation
8 and developmental disabilities, commissioner of social services, or
9 commissioner of education, or their designees, for the development of a
10 recommendation for adult services pursuant to section 7.37 or 13.37 of
11 the mental hygiene law, section three hundred ninety-eight-c of the
12 social services law or subdivision ten of section forty-four hundred
13 three of this article. The] APPROPRIATE PUBLIC AGENCY AS DETERMINED BY
14 THE committee or multidisciplinary team [shall determine which commis-
15 sioner shall receive the report by considering], BASED UPON the [child's
16 handicapping condition] STUDENT'S DISABILITY and physical, mental,
17 emotional and social needs. The committee shall forward additional and
18 updated relevant information to the [commissioner of mental health,
19 commissioner of mental retardation and developmental disabilities,
20 commissioner of social services, or commissioner of education, or their
21 designees,] APPROPRIATE PUBLIC AGENCY upon the request for such informa-
22 tion by such [commissioner or designee] AGENCY, WITH THE CONSENT OF THE
23 PARENTS, OR THE STUDENT, IF SUCH STUDENT IS EIGHTEEN YEARS OR OLDER.

24 (c) [Upon receipt of the notice by the child pursuant to this subpara-
25 graph, the child, if eighteen years of age or older, shall be given the
26 opportunity to consent or withhold consent to the release of the rele-
27 vant information. Such opportunity shall be given within twenty days of
28 the receipt of the notice. An appropriate member of the staff of the
29 educational facility shall be available to assist the child, if neces-
30 sary, to understand the contents of the notice and the need for his or
31 her consent for the release of the relevant information. A form,
32 prescribed by the commissioner, shall be presented to the child for
33 response, which shall clearly set forth the options of giving consent or
34 withholding consent. In the event that the child exercises neither
35 option, and the designated member of the staff of the educational facil-
36 ity has reason to believe that the child may not be able to understand
37 the purpose of the form, or in the event that the child is less than
38 eighteen years of age, the committee on special education or the multi-
39 disciplinary team shall give the parent or guardian of the child the
40 opportunity to consent in writing to the release of the relevant infor-
41 mation. Nothing in this clause shall be construed to be a determination
42 of the child's mental capacity.

43 (d)] When the committee or multidisciplinary team is notified by the
44 [commissioner who] PUBLIC AGENCY WHICH received the report that such
45 state agency is not responsible for determining and recommending adult
46 services for the child, the committee or multidisciplinary team shall
47 forward the report to another [commissioner] PUBLIC AGENCY; or, if the
48 committee or multidisciplinary team determines that there exists a
49 dispute as to which state agency has the responsibility for determining
50 and recommending adult services, the committee or multidisciplinary team
51 may forward the report to the council on children and families for a
52 resolution of such dispute.

53 [(e) The committee and multidisciplinary team shall prepare and submit
54 an annual report to the state education department on or before October
55 first of each year. Such annual report shall contain the number of cases
56 submitted to each commissioner pursuant to clause (b) or (d) of this

1 subparagraph, the type and severity of the handicapping condition
2 involved with each such case, the number of notices received which deny
3 responsibility for determining and recommending adult services, and
4 other information necessary for the state education department and the
5 council on children and families to monitor the need for adult services.
6 Such annual report shall not contain individually identifying informa-
7 tion. The state education department shall forward a copy of such annual
8 report to the council on children and families. All information received
9 by the council on children and families pursuant to this subparagraph
10 shall be subject to the confidentiality requirements of the department.

11 (f) For purposes of this subparagraph, the term "multidisciplinary
12 team" refers to the unit which operates in lieu of a committee on
13 special education with respect to children in state operated schools.

14 (7)] (6) The committee on special education shall provide a copy of
15 the handbook for parents of children with [handicapping conditions]
16 DISABILITIES established under subdivision eight of section four thou-
17 sand four hundred three of this article or a locally approved [hand-
18 icapped] booklet FOR PARENTS OF CHILDREN WITH DISABILITIES to the
19 parents or person in parental relationship to a child as soon as practi-
20 cable after such child has been referred for evaluation to the committee
21 on special education.

22 S 37. Paragraph d of subdivision 4 of section 4402 of the education
23 law, as amended by chapter 646 of the laws of 1992, is amended to read
24 as follows:

25 d. Notwithstanding any other provision of law, such board shall
26 provide suitable transportation up to a distance of fifty miles to and
27 from a nonpublic school which a [child] STUDENT with a [handicapping
28 condition] DISABILITY attends if such [child] STUDENT has been so iden-
29 tified by the local committee on special education and such [child]
30 STUDENT attends such school for the purpose of receiving services or
31 programs FROM SUCH NONPUBLIC SCHOOL THAT ARE similar to special [educa-
32 tional programs] EDUCATION PROGRAMS AND SERVICES recommended for such
33 [child] STUDENT by the local committee on special education. NOTWITH-
34 STANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, A NONPUBLIC STUDENT
35 RECEIVING TRANSPORTATION PURSUANT TO THIS PARAGRAPH SHALL NOT BE ENTI-
36 TLED TO SPECIAL EDUCATION PROGRAMS AND SERVICES FROM THE SCHOOL DISTRICT
37 OF LOCATION PURSUANT TO SECTION THIRTY-SIX HUNDRED TWO-C OF THIS CHAP-
38 TER. AS A CONDITION OF ELIGIBILITY FOR SUCH TRANSPORTATION, THE PARENT
39 OR PERSON IN PARENTAL RELATION TO THE STUDENT SHALL CONSENT TO THE
40 PROVISION OF NOTICE BY THE SCHOOL DISTRICT OF RESIDENCE TO THE CHAIR-
41 PERSON OF THE COMMITTEE ON SPECIAL EDUCATION OF THE SCHOOL DISTRICT IN
42 WHICH THE NONPUBLIC SCHOOL IS LOCATED IDENTIFYING SUCH STUDENT, BY NAME,
43 ADDRESS AND SCHOOL OF ATTENDANCE, AS A STUDENT RECEIVING TRANSPORTATION
44 PURSUANT TO THIS PARAGRAPH. THE SCHOOL DISTRICT OF RESIDENCE SHALL
45 PROVIDE SUCH NOTICE NO LATER THAN THIRTY DAYS AFTER COMMENCING SUCH
46 TRANSPORTATION.

47 S 38. Paragraph a of subdivision 1 of section 4404 of the education
48 law, as amended by chapter 430 of the laws of 2006, is amended to read
49 as follows:

50 a. If the parent or person in parental relation of a student, the
51 board of education or trustees of a school district or a state agency
52 responsible for providing education to students with disabilities
53 presents a complaint with respect to any matter relating to the iden-
54 tification, evaluation or educational placement of the student or the
55 provision of a free appropriate public education to the student or a
56 manifestation determination or other matter relating to placement upon

1 discipline of a student with a disability that may be the subject of an
2 impartial hearing pursuant to subsection (k) of section fourteen hundred
3 fifteen of title twenty of the United States code and the implementing
4 federal regulations, and the party presenting the complaint or their
5 attorney provides a due process complaint notice in accordance with
6 federal law and regulations and such complaint sets forth an alleged
7 violation that occurred not more than [two years] ONE YEAR before the
8 date the parent or public agency knew or should have known about the
9 alleged action that forms the basis for the complaint, OR IN THE CASE OF
10 A COMPLAINT SEEKING TUITION REIMBURSEMENT FOR THE UNILATERAL PARENTAL
11 PLACEMENT OF A STUDENT IN A PRIVATE SCHOOL, SUCH TUITION CLAIM IS
12 PRESENTED NOT MORE THAN ONE HUNDRED EIGHTY DAYS FROM THE PLACEMENT BY
13 THE PARENT OR PERSON IN PARENTAL RELATION IN THE PRIVATE SCHOOL,
14 PROVIDED THAT THE STUDENT SHALL BE DEEMED PLACED FOR SUCH PURPOSE ON THE
15 FIRST DAY THE STUDENT IS ENROLLED IN AND IS LIABLE FOR TUITION IN THE
16 PRIVATE SCHOOL, the board or agency shall appoint an impartial hearing
17 officer to review the due process complaint notice when challenged and,
18 if the matter is not resolved in a resolution session that has been
19 convened as required by federal law, to preside over an impartial due
20 process hearing and make a determination within such period of time as
21 the commissioner by regulation shall determine, provided that the board
22 of education or trustees shall offer the parent or person in parental
23 relation the option of mediation pursuant to section forty-four hundred
24 four-a of this article as an alternative to an impartial hearing. Where
25 the parent or person in parental relation or a school district or public
26 agency presents a complaint, the school district or public agency
27 responsible for appointing the impartial hearing officer shall provide
28 the parent or person in parental relation with a procedural safeguards
29 notice as required pursuant to subsection (d) of section fourteen
30 hundred fifteen of title twenty of the United States code and the imple-
31 menting federal regulations. Notwithstanding any provision of this
32 subdivision to the contrary, the time limitation on presenting a
33 complaint shall not apply to a parent or person in parental relation to
34 the student if the parent or person in parental relation was prevented
35 from requesting the impartial hearing due to specific misrepresentations
36 by the school district or other public agency that it had resolved the
37 problem forming the basis of the complaint or due to the school
38 district's or other public agency's withholding of information from the
39 parent or person in parental relation that was required under federal
40 law to be provided. Nothing in this subdivision shall be construed to
41 authorize the board of education or trustees to bring an impartial hear-
42 ing to override the refusal of a parent or person in parental relation
43 to consent where a local educational agency is prohibited by federal law
44 from initiating such a hearing.

45 S 39. Paragraph b of subdivision 4 of section 4410 of the education
46 law, as added by chapter 243 of the laws of 1989, is amended to read as
47 follows:

48 b. Each board shall, within time limits established by the commission-
49 er, be responsible for providing the parent of a preschool child
50 suspected of having a [handicapping condition] DISABILITY with a list of
51 approved evaluators in the geographic area. The [parent may select the
52 evaluator from such list] SCHOOL DISTRICT SHALL, AFTER PROVIDING THE
53 PARENT WITH A LIST OF APPROVED PRESCHOOL EVALUATORS AND OBTAINING PARENT
54 CONSENT TO EVALUATE, ARRANGE FOR AN EVALUATION BY THE SERVICE PROVIDER
55 SELECTED BY THE DISTRICT WHO CAN PROVIDE THE EVALUATION OF THE STUDENT
56 WITHIN THE TIMELINE REQUIRED BY THE DEPARTMENT. IN SELECTING THE EVALU-

1 ATOR, THE DISTRICT SHALL CONSIDER THE PARENT'S EXPRESSED PREFERENCE, IF
2 ANY, FOR THE EVALUATOR. Each board shall provide for dissemination of
3 the list and other information to parents at appropriate sites including
4 but not limited to pre-kindergarten, day care, head start programs and
5 early childhood direction centers, pursuant to regulations of the
6 commissioner.

7 S 40. Paragraphs (a) and (c) of subdivision 9-a of section 4410 of the
8 education law, paragraph (a) as amended by chapter 581 of the laws of
9 2011 and paragraph (c) as added by chapter 82 of the laws of 1995, are
10 amended to read as follows:

11 (a) A [school district or a] group of appropriately licensed and/or
12 certified professionals associated with a public or private agency may
13 apply to the commissioner for approval as an evaluator on a form
14 prescribed by the commissioner. The commissioner shall approve evalu-
15 ators pursuant to this subdivision consistent with the approval process
16 for the multi-disciplinary evaluation component of programs approved
17 pursuant to subdivision nine of this section consistent with regulations
18 adopted pursuant to such subdivision. ALL SCHOOL DISTRICTS ARE DEEMED
19 APPROVED EVALUATORS OF PRESCHOOL STUDENTS SUSPECTED OF HAVING A DISABIL-
20 ITY WITHOUT THE NEED TO SUBMIT AN APPLICATION TO THE COMMISSIONER.

21 Such application shall include, but not be limited to, a description
22 of the multi-disciplinary evaluation services proposed to be provided
23 and a demonstration that all agency employees and staff who provide such
24 evaluation services shall have appropriate licensure and/or certifi-
25 cation and that the individual who shall have direct supervision
26 responsibilities over such staff shall have an appropriate level of
27 experience in providing evaluation or services to preschool or kinder-
28 garten-aged children with disabilities. To be eligible for approval as
29 an evaluator under this subdivision on and after July first, two thou-
30 sand eleven, a group of appropriately licensed or certified profes-
31 sionals shall be formed as a limited liability company or professional
32 services corporation established pursuant to article fifteen of the
33 business corporation law, article twelve or thirteen of the limited
34 liability company law or article eight-B of the partnership law. The
35 approval of any groups of licensed or certified professionals that are
36 in existence on July first, two thousand eleven and would not be eligi-
37 ble for approval thereafter shall terminate on July first, two thousand
38 thirteen.

39 (c) The commissioner shall establish a billing and reimbursement
40 system for services provided by SCHOOL DISTRICTS AND evaluators approved
41 pursuant to the provisions of this subdivision consistent with billing
42 and reimbursement for evaluation services provided by evaluators
43 approved pursuant to the provisions of subdivision nine of this section.

44 S 41. Paragraph c of subdivision 1 of section 4410-b of the education
45 law, as added by chapter 6 of the laws of 2000, is amended to read as
46 follows:

47 c. "IEP team" means a committee on special education, [a subcommittee
48 on special education,] OR a committee on preschool special education [or
49 a subcommittee on preschool special education].

50 S 42. This act shall take effect July 1, 2014, provided that if this
51 act shall become a law after such date, it shall take effect immediately
52 and shall be deemed to have been in full force and effect on and after
53 July 1, 2014 and provided further, nothing in section nine of this act
54 shall be construed to require the retrofitting of school buses purchased
55 prior to the effective date of this act, and provided further that:

1 (a) the amendments to subdivision 2 of section 103 of the general
2 municipal law made by section six of this act shall be subject to the
3 expiration and reversion of such subdivision pursuant to section 41 of
4 part X of chapter 62 of the laws of 2003, as amended, when upon such
5 date the provisions of section seven of this act shall take effect;

6 (b) the amendments to subparagraph 2 of paragraph (b) of subdivision 4
7 of section 2590-b of the education law made by section twelve of this
8 act shall not affect the repeal of such subdivision or the expiration of
9 such section and shall be deemed to repeal or expire therewith;

10 (c) the amendments to paragraph (a) of subdivision 4 of section 2853
11 of the education law made by section thirteen of this act shall be
12 subject to the expiration and reversion of such paragraph pursuant to
13 chapter 378 of the laws of 2007, as amended, when upon such date the
14 provisions of section fourteen of this act shall take effect;

15 (d) the amendments to subdivision 2 of section 3602-c of the education
16 law made by section fifteen of this act shall not affect the expiration
17 of such subdivision and shall be deemed to expire therewith;

18 (e) the amendments to subdivision 7 of section 3602-c of the education
19 law made by section sixteen of this act shall not affect the expiration
20 or repeal of such provisions and shall be deemed to expire or repeal
21 therewith;

22 (f) the amendments to subparagraph 2 of paragraph b of subdivision 1
23 of section 4402 of the education law made by section twenty-five of this
24 act shall be subject to the expiration and reversion of such subpara-
25 graph pursuant to chapter 352 of the laws of 2005, as amended, when upon
26 such date the provisions of section twenty-six of this act shall take
27 effect;

28 (g) the amendments to clause (b) of subparagraph 1 of paragraph b of
29 subdivision 1 of section 4402 of the education law made by section thir-
30 ty-two of this act shall be subject to the expiration and reversion of
31 such clause pursuant to chapter 378 of the laws of 2007, as amended,
32 when upon such date the provisions of section thirty-three of this act
33 shall take effect;

34 (h) the amendments to paragraph a of subdivision 1 of section 4404 of
35 the education law made by section thirty-eight of this act shall not
36 affect the expiration of such subdivision and shall be deemed to expire
37 therewith; and

38 (i) the amendments to paragraphs (a) and (c) of subdivision 9-a of
39 section 4410 of the education law made by section forty of this act
40 shall not affect the repeal of such subdivision and shall be deemed
41 repealed therewith.