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

7024

I N S E N A T E

March 17, 2016

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

AN ACT to amend the education law, in relation to requiring persistently dangerous schools to file an incident reduction plan detailing the steps the school will take to reduce incidents of violence and disruption and requiring notice to be given to victims of harassment, bullying, or violent offenses of their right to transfer to another public school

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

Section 1. Subdivision 7 of section 2802 of the education law, as added by chapter 425 of the laws of 2002, is amended to read as follows:

7. Notwithstanding any other provision of state or local law, rule or regulation to the contrary, any student who attends a persistently dangerous public elementary or secondary school, as determined by the commissioner pursuant to paragraph a of this subdivision, or who is a victim of HARASSMENT OR BULLYING, AS DEFINED PURSUANT TO SUBDIVISION SEVEN OF SECTION ELEVEN OF THIS CHAPTER, OR a violent criminal offense, as defined pursuant to paragraph [b] C of this subdivision, that occurred on the grounds of a public elementary or secondary school that the student attends, shall [be allowed to attend] HAVE THE RIGHT TO TRANSFER TO a safe public school within the [local educational agency to the extent required by section ninety-five hundred thirty-two of the No Child Left Behind Act of 2001] SCHOOL DISTRICT.

a. The commissioner shall annually determine which public elementary and secondary schools are persistently dangerous in accordance with regulations of the commissioner developed in consultation with a representative sample of local educational agencies. Such determination shall be based on data submitted through the uniform violent incident reporting system over a period prescribed in the regulations, which shall not be less than two years, REPORTS OF VIOLENT INCIDENTS AND CRIMINAL OFFENSES FROM SCHOOL SAFETY AGENTS AND POLICE OFFICERS, REPORTS OF VIOLENT OR HARMFUL CONDUCT BY TEACHERS AND ADMINISTRATIVE STAFF, AND ANY OTHER DATA REASONABLY REQUIRED BY THE COMMISSIONER RELATED TO SAFETY.

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

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b. EACH PUBLIC ELEMENTARY AND SECONDARY SCHOOL DESIGNATED AS PERSISTENTLY DANGEROUS PURSUANT TO PARAGRAPH A OF THIS SUBDIVISION SHALL, IN THE SUBSEQUENT SCHOOL YEAR, SUBMIT TO THE COMMISSIONER AN INCIDENT REDUCTION PLAN DETAILING THE STEPS THE SCHOOL WILL TAKE TO REDUCE INCIDENTS OF VIOLENCE AND DISRUPTION AND REMOVE THE PERSISTENTLY DANGEROUS DESIGNATION BY THE FOLLOWING SCHOOL YEAR. SUCH PLAN SHALL INCLUDE, AT A MINIMUM, THE PREVENTION AND INTERVENTION STRATEGIES RECOMMENDED PURSUANT TO PARAGRAPH C OF SUBDIVISION TWO OF SECTION TWO THOUSAND EIGHT HUNDRED ONE-A OF THIS ARTICLE. NOTWITHSTANDING ANY PROVISION TO THE CONTRARY, AN ELEMENTARY OR SECONDARY SCHOOL DESIGNATED AS PERSISTENTLY DANGEROUS, AND WHICH REMAINS ON THE PERSISTENTLY DANGEROUS LIST FOR THREE CONSECUTIVE YEARS, SHALL BE SUBJECT TO CLOSURE ON JUNE THIRTIETH FOLLOWING THE THIRD CONSECUTIVE YEAR OF SUCH PERSISTENTLY DANGEROUS DESIGNATION EXCEPT THAT UPON A FINDING OF GOOD CAUSE, THE COMMISSIONER MAY GRANT SUCH SCHOOL UP TO TWO ADDITIONAL ACADEMIC YEARS TO ACHIEVE RESULTS THAT WOULD REMOVE THE PERSISTENTLY DANGEROUS DESIGNATION.

C. Each local educational agency required to provide unsafe school choice shall establish procedures for determinations by the superintendent of schools or other chief school officer of whether a student is the victim of HARASSMENT, BULLYING, OR a violent criminal offense that occurred on school grounds of the school that the student attends. Such superintendent of schools or other chief school officer shall, prior to making any such determination, consult with any law enforcement agency investigating such alleged violent criminal offense and consider any reports or records provided by such agency. The trustees or board of education or other governing board of a local educational agency may provide, by local rule or by-law, for appeal of the determination of the superintendent of schools to such governing board. Notwithstanding any other provision of law to the contrary, the determination of such chief school officer pursuant to this paragraph shall not have collateral estoppel effect in any student disciplinary proceeding brought against the alleged victim or perpetrator of such violent criminal offense. For purposes of this subdivision, "violent criminal offense" shall mean a crime that involved infliction of serious physical injury upon another as defined in the penal law, a sex offense that involved forcible compulsion or any other offense defined in the penal law that involved the use or threatened use of a deadly weapon.

[c.] D. Each local educational agency, as defined in subsection twenty-six of section ninety-one hundred one of the No Child Left Behind Act of 2001, that is required to provide school choice pursuant to section ninety-five hundred thirty-two of the No Child Left Behind Act of 2001 shall establish procedures for notification of parents of, or persons in parental relation to, students attending schools that have been designated as persistently dangerous and parents of, or persons in parental relation to, students who are victims of HARASSMENT, BULLYING, OR violent criminal offenses of their right to transfer to a safe public school within the [local educational agency] SCHOOL DISTRICT and procedures for such transfer[, except that nothing in this subdivision shall be construed to require such notification where there are no other public schools within the local educational agency at the same grade level or such transfer to a safe public school within the local educational agency is otherwise impossible or to require a local educational agency that has only one public school within the local educational agency or only one public school at each grade level to develop such procedures]. SUCH NOTIFICATION SHALL ALSO INCLUDE A LIST OF DESIGNATED SAFE PUBLIC SCHOOLS WITHIN THE SCHOOL DISTRICT TO WHICH THE STUDENT MAY

TRANSFER, TO THE EXTENT PRACTICABLE, BE PROVIDED IN THE DOMINANT LANGUAGE AND MODE OF COMMUNICATION OF PARENTS OF, OR PERSONS IN PARENTAL RELATION TO, SUCH STUDENTS, AND BE PROVIDED NO LATER THAN TEN DAYS AFTER SUCH SCHOOL HAS BEEN DESIGNATED AS PERSISTENTLY DANGEROUS, OR FOR STUDENTS WHO ARE VICTIMS OF HARASSMENT, BULLYING, OR A VIOLENT CRIMINAL OFFENSE, WITHIN TWENTY-FOUR HOURS OF SUCH DETERMINATION. IF THERE ARE NO SAFE PUBLIC SCHOOLS WITHIN THE SCHOOL DISTRICT AT THE SAME GRADE LEVEL, THE NOTIFICATION OF THE RIGHT TO TRANSFER SHALL INCLUDE AN OFFER OF ASSISTANCE IN PURSUING OPTIONS OUTSIDE OF THE SCHOOL DISTRICT. The commissioner shall be authorized to adopt any regulations deemed necessary to assure that local educational agencies implement the provisions of this subdivision.

S 2. This act shall take effect immediately, provided, however, that the amendments to subdivision 7 of section 2802 of the education law made by section one of this act shall not affect the repeal of such subdivision and shall be deemed repealed therewith.