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I N S E N A T E

May 17, 2016

Introduced by Sen. MARCELLINO -- (at request of the State Education Department) -- 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 establishing Earth day; in relation to mandate relief for school districts and certain other educational entities; in relation to removing references to subcommittees on special education; 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; in relation to eliminating the requirement that the commissioner of education make appointments to state-supported schools; in relation to the committee on special education membership requirements; in relation to transportation of students with disabilities parentally placed in a private school; in relation to establishing that all school districts are approved evaluators of preschool students suspected of having a disability; in relation to the statute of limitations for special education due process hearings; in relation to the selection of a preschool evaluator; in relation to referrals to state adult service agencies for certain students with disabilities who have reached the age of 18; 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 state smart growth public infrastructure criteria; to amend the vehicle and traffic law, in relation to school omnibus signs complying with federal motor vehicle safety standards; to authorize the commissioner of education to conduct a study of the feasibility and desirability of authorizing school districts and boards of cooperative educational services to enter national credit card contracts; to repeal subdivision 15 of section 353 of the executive law relating to the duties of the state 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 educa-

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

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

a. All contracts for the transportation of school children, all contracts to maintain school buses owned or leased by a school district that are used for the transportation of school children, all contracts for mobile instructional units, and all contracts to provide, maintain and operate cafeteria or restaurant service by a private food service management company shall be subject to the approval of the commissioner, who may disapprove a proposed contract if, in his opinion, the best interests of the district will be promoted thereby. Except as provided in paragraph e of this subdivision, all such contracts involving an annual expenditure in excess of the amount specified for purchase contracts in the bidding requirements of the general municipal law shall be awarded to the lowest responsible bidder, which responsibility shall be determined by the board of education or the trustee of a district, with power hereby vested in the commissioner to reject any or all bids if, in his opinion, the best interests of the district will be promoted thereby and, upon such rejection of all bids, the commissioner shall order the board of education or trustee of the district to seek, obtain and consider new proposals. All proposals for such transportation, main-

1 tenance, mobile instructional units, or cafeteria and restaurant service
2 shall be in such form as the commissioner may prescribe. Advertisement
3 for bids shall be published in a newspaper or newspapers designated by
4 the board of education or trustee of the district having general circu-
5 lation within the district for such purpose OR IN THE STATE'S PROCURE-
6 MENT OPPORTUNITIES NEWSLETTER IN ACCORDANCE WITH ARTICLE FOUR-C OF THE
7 ECONOMIC DEVELOPMENT LAW. Such advertisement shall contain a statement
8 of the time when and place where all bids received pursuant to such
9 advertisement will be publicly opened and read either by the school
10 authorities or by a person or persons designated by them. All bids
11 received shall be publicly opened and read at the time and place so
12 specified. At least five days shall elapse between the first publication
13 of such advertisement and the date so specified for the opening and
14 reading of bids. The requirement for competitive bidding shall not apply
15 to an award of a contract for the transportation of pupils or a contract
16 for mobile instructional units OR THE PROVISION, MAINTENANCE AND OPERA-
17 TION OF CAFETERIA OR RESTAURANT SERVICE, if such award is based on an
18 evaluation of proposals in response to a request for proposals pursuant
19 to paragraph e of this subdivision. The requirement for competitive
20 bidding shall not apply to annual, biennial, or triennial extensions of
21 a contract nor shall the requirement for competitive bidding apply to
22 quadrennial or quinquennial year extensions of a contract involving
23 transportation of pupils, maintenance of school buses or mobile instruc-
24 tional units secured either through competitive bidding or through eval-
25 uation of proposals in response to a request for proposals pursuant to
26 paragraph e of this subdivision, when such extensions (1) are made by
27 the board of education or the trustee of a district, under rules and
28 regulations prescribed by the commissioner, and, (2) do not extend the
29 original contract period beyond five years from the date cafeteria and
30 restaurant service commenced thereunder and in the case of contracts for
31 the transportation of pupils, for the maintenance of school buses or for
32 mobile instructional units, that such contracts may be extended, except
33 that power is hereby vested in the commissioner, in addition to his
34 existing statutory authority to approve or disapprove transportation or
35 maintenance contracts, (i) to reject any extension of a contract beyond
36 the initial term thereof if he finds that amount to be paid by the
37 district to the contractor in any year of such proposed extension fails
38 to reflect any decrease in the regional consumer price index for the
39 N.Y., N.Y.-Northeastern, N.J. area, based upon the index for all urban
40 consumers (CPI-U) during the preceding twelve month period; and (ii) to
41 reject any extension of a contract after ten years from the date trans-
42 portation or maintenance service commenced thereunder, or mobile
43 instructional units were first provided, if in his opinion, the best
44 interests of the district will be promoted thereby. Upon such rejection
45 of any proposed extension, the commissioner may order the board of
46 education or trustee of the district to seek, obtain and consider bids
47 pursuant to the provisions of this section. The board of education or
48 the trustee of a school district electing to extend a contract as
49 provided herein, may, in its discretion, increase the amount to be paid
50 in each year of the contract extension by an amount not to exceed the
51 regional consumer price index increase for the N.Y., N.Y.-Northeastern,
52 N.J. area, based upon the index for all urban consumers (CPI-U), during
53 the preceding twelve month period, provided it has been satisfactorily
54 established by the contractor that there has been at least an equivalent
55 increase in the amount of his cost of operation, during the period of
56 the contract.

1 S 3. Paragraph e of subdivision 14 of section 305 of the education
2 law, as amended by chapter 464 of the laws of 1997, is amended to read
3 as follows:

4 e. Notwithstanding the provisions of any general, special or local law
5 or charter, a board of education or a trustee of a district, pursuant to
6 rules and regulations promulgated by the commissioner, may award a
7 contract for the transportation of pupils or a contract for mobile
8 instructional units OR FOR THE PROVISION, MAINTENANCE AND OPERATION OF
9 CAFETERIA OR RESTAURANT SERVICE BY A PRIVATE FOOD SERVICE MANAGEMENT
10 COMPANY involving an annual expenditure in excess of the amount speci-
11 fied for purchase contracts in the bidding requirements of the general
12 municipal law in compliance with the provisions of paragraph a of this
13 subdivision or subsequent to an evaluation of proposals submitted in
14 response to a request for proposals prepared by or for the board of
15 education or trustee of a district. A CONTRACT AWARDED THROUGH A REQUEST
16 FOR PROPOSALS SHALL BE AWARDED BASED ON BEST VALUE IN ACCORDANCE WITH
17 SECTION ONE HUNDRED THREE OF THE GENERAL MUNICIPAL LAW. The commission-
18 er, in addition to his existing statutory authority to approve or disap-
19 prove transportation contracts, may reject any award of a transportation
20 contract or a contract for mobile instructional units that is based on
21 an evaluation of proposals submitted in response to a request for
22 proposals if he finds that (1) the contractor is not the most responsive
23 to the request for proposals, or (2) that the best interests of the
24 district will be promoted thereby.

25 S 4. Subdivision 14 of section 305 of the education law is amended by
26 adding a new paragraph g to read as follows:

27 G. NOTWITHSTANDING THE PROVISIONS OF THIS SUBDIVISION, SECTION ONE
28 HUNDRED THREE OF THE GENERAL MUNICIPAL LAW, OR ANY OTHER PROVISION OF
29 LAW TO THE CONTRARY, THE BOARD OF EDUCATION SHALL BE AUTHORIZED TO ENTER
30 INTO A PIGGYBACK CONTRACT WITH ANOTHER SCHOOL DISTRICT THAT TRANSPORTS
31 STUDENTS PURSUANT TO A CONTRACT WITH A PRIVATE TRANSPORTATION CONTRAC-
32 TOR, PROVIDED THAT THE BOARD FINDS THAT THE CONTRACT COST IS APPROPRIATE
33 AND ENTRY INTO A PIGGYBACK CONTRACT WILL RESULT IN A COST SAVINGS TO THE
34 SCHOOL DISTRICT. FOR PURPOSES OF THIS PARAGRAPH, A "PIGGYBACK CONTRACT"
35 MEANS A CONTRACT FOR THE TRANSPORTATION OF STUDENTS THAT: (1) PROVIDES
36 TRANSPORTATION TO A LOCATION OUTSIDE THE STUDENTS' SCHOOL DISTRICT OF
37 RESIDENCE TO WHICH ANOTHER SCHOOL DISTRICT IS ALREADY PROVIDING TRANS-
38 PORTATION TO ITS OWN STUDENTS THROUGH AN EXISTING CONTRACT WITH A
39 PRIVATE TRANSPORTATION CONTRACTOR, OTHER THAN A COOPERATIVELY BID
40 CONTRACT; (2) IS ENTERED INTO BY THE PRIVATE TRANSPORTATION CONTRACTOR
41 AND EACH SCHOOL DISTRICT INVOLVED; AND (3) PROVIDES FOR TRANSPORTATION
42 IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF SUCH EXISTING TRANSPORTA-
43 TION CONTRACT.

44 S 5. Subdivision 1 of section 6-0107 of the environmental conservation
45 law, as added by chapter 433 of the laws of 2010, is amended to read as
46 follows:

47 1. In addition to meeting other criteria and requirements of law
48 governing approval, development, financing and state aid for the
49 construction of new or expanded public infrastructure or the recon-
50 struction thereof, no state infrastructure agency shall approve, under-
51 take, support or finance a public infrastructure project, including
52 providing grants, awards, loans or assistance programs, unless, to the
53 extent practicable, it is consistent with the relevant criteria speci-
54 fied in subdivision two of this section. NOTWITHSTANDING THE PROVISIONS
55 OF THIS SUBDIVISION OR ANY OTHER PROVISION OF THIS ARTICLE TO THE
56 CONTRARY, PROJECTS FOR THE RECONSTRUCTION, RENOVATION, REPAIR OR

1 IMPROVEMENT OF EXISTING PUBLIC SCHOOL FACILITIES OR EXISTING LIBRARY
2 FACILITIES, AND PROJECTS FOR THE CONSTRUCTION OF NEW OR EXPANDED PUBLIC
3 SCHOOL OR LIBRARY FACILITIES IN CITIES HAVING A POPULATION OF ONE
4 HUNDRED TWENTY-FIVE THOUSAND INHABITANTS OR MORE, SHALL NOT BE DEEMED
5 PUBLIC INFRASTRUCTURE PROJECTS SUBJECT TO THE REQUIREMENTS OF THIS ARTI-
6 CLE.

7 S 6. Subparagraph 1 of paragraph (b) and paragraphs (c) and (d) of
8 subdivision 20 of section 375 of the vehicle and traffic law, subpara-
9 graph 1 of paragraph (b) as amended by chapter 242 of the laws of 1992,
10 paragraph (c) as amended by chapter 96 of the laws of 1973 and paragraph
11 (d) as amended by chapter 567 of the laws of 1985, are amended to read
12 as follows:

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

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

36 (d)] Every such omnibus shall be equipped as provided in paragraphs
37 (a) and (b) of this subdivision, [and such signs shall be displayed and
38 illuminated in accordance with paragraphs (b) and (c) of this subdivi-
39 sion,] and such signal lamps shall be operated as provided in paragraph
40 (a) of this subdivision at all times when such omnibus shall be engaged
41 in transporting pupils to and from school or school activities or in
42 transporting children to and from child care centers maintained for
43 children of migrant farm and food processing laborers, or in transport-
44 ing children to and from camp or camp activities or transporting chil-
45 dren to and from religious services or instruction or transporting
46 persons with disabilities on any such omnibus used by any state facility
47 or not-for-profit agency licensed by the state.

48 S 7. Subdivision 15 of section 353 of the executive law is REPEALED.

49 S 8. The commissioner of education, in consultation with the office of
50 the state comptroller, shall conduct a study of the feasibility and
51 desirability of authorizing school districts and boards of cooperative
52 educational services to enter national credit card contracts as a cost-
53 saving measure, with appropriate safeguards. The commissioner of educa-
54 tion shall submit a report to the board of regents, the governor and the
55 legislature by no later than January 15, 2017, with recommendations on
56 whether and under what conditions such credit card contracts should be

1 authorized and identifying any legislative or regulatory changes that
2 would be needed to authorize such credit card contracts.

3 S 9. Subparagraph 2 of paragraph (b) of subdivision 4 of section
4 2590-b of the education law, as amended by chapter 345 of the laws of
5 2009, is amended to read as follows:

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

9 S 10. Paragraph (a) of subdivision 4 of section 2853 of the education
10 law, as amended by chapter 378 of the laws of 2007, is amended to read
11 as follows:

12 (a) For purposes of sections seven hundred one, seven hundred eleven,
13 seven hundred fifty-one and nine hundred twelve of this chapter, a char-
14 ter school shall be deemed a nonpublic school in the school district
15 within which the charter school is located. Special education programs
16 and services shall be provided to students with a disability attending a
17 charter school in accordance with the individualized education program
18 recommended by the committee [or subcommittee] on special education of
19 the student's school district of residence. The charter school may
20 arrange to have such services provided by such school district of resi-
21 dence or by the charter school directly or by contract with another
22 provider. Where the charter school arranges to have the school district
23 of residence provide such special education programs or services, such
24 school district shall provide services in the same manner as it serves
25 students with disabilities in other public schools in the school
26 district, including the provision of supplementary and related services
27 on site to the same extent to which it has a policy or practice of
28 providing such services on the site of such other public schools.

29 S 11. Paragraph (a) of subdivision 4 of section 2853 of the education
30 law, as added by chapter 4 of the laws of 1998, is amended to read as
31 follows:

32 (a) For purposes of sections seven hundred one, seven hundred eleven,
33 seven hundred fifty-one and nine hundred twelve of this chapter, a char-
34 ter school shall be deemed a nonpublic school in the school district
35 within which the charter school is located. Special education programs
36 and services shall be provided to students with a disability attending a
37 charter school in accordance with the individualized education program
38 recommended by the committee [or subcommittee] on special education of
39 the student's school district of residence. The charter school may
40 arrange to have such services provided by such school district of resi-
41 dence or by the charter school directly or by contract with another
42 provider.

43 S 12. Paragraph a of subdivision 1 and paragraph a and subparagraph 1
44 of paragraph b of subdivision 2 of section 3602-c of the education law,
45 paragraph a of subdivision 1 as amended by chapter 474 of the laws of
46 2004, paragraph a and subparagraph 1 of paragraph b of subdivision 2 as
47 amended by chapter 378 of the laws of 2007, are amended and a new para-
48 graph e is added to subdivision 2 to read as follows:

49 a. "Services" shall mean instruction in the areas of gifted pupils,
50 career education and education for students with disabilities, and coun-
51 seling, psychological and social work services related to such instruc-
52 tion provided during the regular school year for pupils enrolled in a
53 nonpublic school located in a school district, INCLUDING SPECIAL EDUCA-
54 TION PROGRAMS AND RELATED SERVICES AS DEFINED IN SUBDIVISION TWO OF
55 SECTION FORTY-FOUR HUNDRED ONE OF THIS CHAPTER OTHER THAN AN APPROVED
56 PRIVATE RESIDENTIAL OR NON-RESIDENTIAL SCHOOL FOR THE EDUCATION OF

1 STUDENTS WITH DISABILITIES, provided that such instruction is given to
2 pupils enrolled in the public schools of such district. SUCH TERM SHALL
3 ALSO INCLUDE EDUCATION FOR STUDENTS WITH DISABILITIES ENROLLED IN SUCH A
4 NONPUBLIC SCHOOL WHICH IS PROVIDED IN JULY AND AUGUST IN ACCORDANCE WITH
5 PARAGRAPH E OF SUBDIVISION TWO OF THIS SECTION.

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

40 (1) For the purpose of obtaining education for students with disabili-
41 ties, as defined in paragraph d of subdivision one of this section, such
42 request shall be reviewed by the committee on special education of the
43 school district of location, which shall develop an individualized
44 education service program for the student based on the student's indi-
45 vidual needs in the same manner and with the same contents as an indi-
46 vidualized education program, EXCEPT AS OTHERWISE PROVIDED IN THIS
47 SUBPARAGRAPH. The committee on special education shall assure that
48 special education programs and services are made available to students
49 with disabilities attending nonpublic schools located within the school
50 district on an equitable basis, as compared to special education
51 programs and services provided to other students with disabilities
52 attending public or nonpublic schools located within the school
53 district, EXCEPT THAT THERE SHALL BE NO ENTITLEMENT UNDER THIS SECTION
54 TO THE PROVISION OF A SPECIAL CLASS OR INTEGRATED CO-TEACHING SERVICES,
55 AS SUCH TERMS ARE DEFINED IN THE REGULATIONS OF THE COMMISSIONER, BY THE
56 SCHOOL DISTRICT OF LOCATION FOR ALL OR PART OF THE SCHOOL DAY. Review of

1 the recommendation of the committee on special education may be obtained
2 by the parent or person in parental relation of the pupil pursuant to
3 the provisions of section forty-four hundred four of this chapter;
4 PROVIDED THAT A DUE PROCESS COMPLAINT, OTHER THAN A DUE PROCESS
5 COMPLAINT RELATING TO CHILD FIND REQUIREMENTS BROUGHT PURSUANT TO PARA-
6 GRAPH C OF THIS SUBDIVISION, SUBMITTED ON OR AFTER SEPTEMBER FIRST, TWO
7 THOUSAND TWELVE SHALL BE SUBMITTED TO MEDIATION PURSUANT TO SECTION
8 FORTY-FOUR HUNDRED FOUR-A OF THIS CHAPTER AND AT LEAST ONE MEDIATION
9 SESSION SHALL BE HELD PRIOR TO MAKING A REQUEST FOR AN IMPARTIAL HEARING
10 IN ACCORDANCE WITH A TIMELINE PRESCRIBED BY THE COMMISSIONER.

11 E. A NONPUBLIC SCHOOL STUDENT WHOSE DISABILITY IS SEVERE ENOUGH TO
12 EXHIBIT THE NEED FOR A STRUCTURED LEARNING ENVIRONMENT OF TWELVE MONTHS
13 DURATION TO MAINTAIN DEVELOPMENTAL LEVELS SHALL BE ELIGIBLE TO RECEIVE
14 SPECIAL EDUCATION PROGRAMS AND SERVICES IN JULY AND AUGUST IN ACCORDANCE
15 WITH THE INDIVIDUALIZED EDUCATION SERVICE PROGRAM DEVELOPED BY THE
16 COMMITTEE ON SPECIAL EDUCATION OF THE SCHOOL DISTRICT OF LOCATION AND
17 THE PROVISIONS OF SECTION FORTY-FOUR HUNDRED EIGHT OF THIS CHAPTER.
18 PROVIDED, HOWEVER, THAT DURING A JULY/AUGUST SPECIAL EDUCATION PROGRAM,
19 A NONPUBLIC SCHOOL STUDENT SHALL NOT BE ENTITLED PURSUANT TO THIS
20 SECTION TO PLACEMENT IN A SPECIAL CLASS OR INTEGRATED CO-TEACHING
21 SERVICES, AS SUCH TERMS ARE DEFINED IN THE REGULATIONS OF THE COMMIS-
22 SIONER. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE
23 SCHOOL DISTRICT OF LOCATION SHALL BE ELIGIBLE FOR STATE AID FOR SUCH
24 SERVICES EXCLUSIVELY PURSUANT TO SECTION FORTY-FOUR HUNDRED EIGHT OF
25 THIS CHAPTER.

26 S 13. Paragraph e of subdivision 2 of section 4002 of the education
27 law, as added by chapter 563 of the laws of 1980, is amended to read as
28 follows:

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

33 S 14. Subdivision 2 of section 4201 of the education law is amended to
34 read as follows:

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

36 a. To inquire into the organization of the several schools and the
37 methods of instruction employed therein.

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

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

44 d.] To ascertain by a comparison with other similar institutions
45 whether any improvements in instruction and discipline can be made; and
46 for that purpose to appoint from time to time, suitable persons to visit
47 the schools.

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

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

54 S 15. Section 4203 of the education law is amended to read as follows:

55 S 4203. Persons eligible for [appointment] ENROLLMENT as pupils to
56 institutions for instruction of the deaf. All deaf children resident in

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

17 S 16. Subdivision 3 of section 4204 of the education law, as amended
18 by section 51 of part A of chapter 58 of the laws of 2011, is amended to
19 read as follows:

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

32 S 17. Section 4206 of the education law, as amended by chapter 53 of
33 the laws of 1990, is amended to read as follows:

34 S 4206. Persons eligible for [appointment] ENROLLMENT as pupils [to]
35 IN institutions for instruction of the blind. 1. All blind persons of
36 suitable age and capacity and who shall have been residents in this
37 state for one year immediately preceding the application or, if a minor,
38 whose parent or parents, or, if an orphan, whose nearest friend, shall
39 have been a resident in this state for one year immediately preceding
40 the application, shall be eligible for [appointment] ENROLLMENT as
41 [state] pupils to the New York Institute for Special Education in the
42 city of New York or the Lavelle School for the Blind in the city of New
43 York.

44 2. Blind babies and children of the age of fifteen years and under and
45 possessing the other qualifications prescribed in this article and
46 requiring kindergarten training or other special care and instruction,
47 shall be eligible for [appointment] ENROLLMENT as [state] pupils [by the
48 commissioner of education at his discretion] in any incorporated insti-
49 tution furnishing approved care, training and instruction for blind
50 babies and children, and any such child may be transferred to the New
51 York Institute for Special Education in the city of New York or the
52 Lavelle School for the Blind in the city of New York, to which he or she
53 would otherwise be eligible for [appointment] ENROLLMENT, upon arriving
54 at suitable age[, in the discretion of the commissioner of education].

55 3. [All such appointments shall be made by the commissioner of educa-
56 tion.] The requirement of this section as to length of residence in this

1 state may be waived in the discretion of the commissioner [of educa-
2 tion].

3 4. PLACEMENT IN SUCH INSTITUTIONS SHALL BE RECOMMENDED BY THE COMMIT-
4 TEE ON SPECIAL EDUCATION, OR COMMITTEE ON PRESCHOOL SPECIAL EDUCATION
5 WHERE APPLICABLE, OF THE SCHOOL DISTRICT RESPONSIBLE FOR EDUCATING SUCH
6 PUPIL, AND SUCH RECOMMENDATION MAY INCLUDE THE PROVISION OF SPECIAL
7 EDUCATION PROGRAMS AND SERVICES IN JULY OR AUGUST IN ACCORDANCE WITH THE
8 PROVISIONS OF PARAGRAPH A OF SUBDIVISION TWO OF SECTION FORTY-FOUR
9 HUNDRED TWO OF THIS TITLE.

10 S 18. Subdivisions 3 and 4 of section 4207 of the education law, as
11 amended by section 54 of part A of chapter 58 of the laws of 2011, are
12 amended to read as follows:

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

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

31 S 19. Section 4213 of the education law, as added by chapter 496 of
32 the laws of 1986, is amended to read as follows:

33 S 4213. Other persons eligible for [appointment] ENROLLMENT. In
34 accordance with the provisions of the charter of the New York Institute
35 for Special Education, and amendments thereto, as issued by the board of
36 regents, children with [handicapping conditions] DISABILITIES, other
37 than [handicapping conditions] DISABILITIES which would establish eligi-
38 bility for [appointment] ENROLLMENT to the schools enumerated in this
39 article, shall be eligible for [appointment] ENROLLMENT to the New York
40 Institute for Special Education as [state] pupils. The provisions of
41 this article shall apply but not necessarily be limited to the [appoint-
42 ment] ENROLLMENT, education, maintenance and support of such pupils.
43 Such pupils eligible for [appointment] ENROLLMENT, pursuant to this
44 section, shall be persons over five and under twenty-one years of age
45 who have not received a high school diploma.

46 S 20. Paragraph d of subdivision 2 of section 4401 of the education
47 law, as amended by chapter 53 of the laws of 1990, is amended to read as
48 follows:

49 d. Appointment by the commissioner to a state school in accordance
50 with article eighty-seven or eighty-eight of this chapter or ENROLLMENT
51 IN a state-supported school in accordance with article eighty-five of
52 this chapter.

53 S 21. Subparagraph 2 of paragraph b of subdivision 1 of section 4402
54 of the education law, as amended by chapter 352 of the laws of 2005, is
55 amended to read as follows:

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

7 S 22. Subparagraph 2 of paragraph b of subdivision 1 of section 4402
8 of the education law, as amended by chapter 82 of the laws of 1995, is
9 amended to read as follows:

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

17 S 23. Subparagraph 2 of paragraph b of subdivision 2 of section 4402
18 of the education law, as amended by chapter 391 of the laws of 1989, is
19 amended to read as follows:

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

42 S 24. The opening paragraph of subparagraph 3 and subparagraph 3-a of
43 paragraph b of subdivision 1 of section 4402 of the education law, the
44 opening paragraph of subparagraph 3 as amended by chapter 53 of the laws
45 of 1991 and subparagraph 3-a as added by chapter 630 of the laws of
46 2008, are amended to read as follows:

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

48 (3-a) The members of the committee [or subcommittee] may compile a
49 list of appropriate and/or helpful services that may be available
50 outside of the school setting to provide the parents or person in
51 parental relation of a child with a disability with such information.
52 Such list shall clearly state that these services are in addition to
53 services supplied by the school district and will not be paid for by the
54 school district. Any member of a committee [or subcommittee] or his or
55 her respective school district who, acting reasonably and in good faith,
56 provides such information shall not be liable for such action.

1 S 25. Clause (h) of subparagraph 3 of paragraph b of subdivision 1 of
2 section 4402 of the education law is REPEALED.

3 S 26. Subdivisions 8 and 9 of section 4403 of the education law, as
4 amended by chapter 273 of the laws of 1986, are amended to read as
5 follows:

6 8. To develop and distribute a handbook for parents of [handicapped]
7 children WITH DISABILITIES and the members of committees [and subcommit-
8 tees] on special education, which handbook shall explain, in layman
9 terms, the financial and educational obligations of the state, the coun-
10 ty or city, the home school district, the committee on special educa-
11 tion, and the parent or legal guardian of a [handicapped] child WITH
12 DISABILITY, the special services or programs available pursuant to this
13 article, and the legal procedures available to an aggrieved parent or
14 legal guardian of a [handicapped] child WITH A DISABILITY.

15 9. To make provision by regulation of the commissioner to assure the
16 confidentiality of any personally identifiable data, information, and
17 records collected or maintained by the state department of education or
18 any school district, including a committee [or subcommittee] on special
19 education, and the officers, employees or members thereof, pursuant to
20 or in furtherance of the purposes of this article, and shall establish
21 procedures upon which any such personally identifiable data, informa-
22 tion, or records may be disclosed.

23 S 27. Subdivision 16 of section 4403 of the education law, as amended
24 by section 4 of part E of chapter 501 of the laws of 2012, is amended to
25 read as follows:

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

38 S 28. The opening paragraph and clauses (a), (b) and (c) of subpara-
39 graph 1 of paragraph b of subdivision 1 of section 4402 of the education
40 law, the opening paragraph and clauses (a) and (c) as amended by chapter
41 311 of the laws of 1999, subclause (viii) of clause (a) as amended by
42 chapter 194 of the laws of 2004, clause (b) as amended by section 1 of
43 chapter 276 of the laws of 2012 and the closing paragraph of clause (b)
44 as amended by chapter 378 of the laws of 2007, are amended to read as
45 follows:

46 The board of education or trustees of each school district shall
47 establish committees [and/or subcommittees] on special education as
48 necessary to ensure timely evaluation and placement of pupils. The board
49 of education of the city school district of the city of New York, shall
50 establish at least one committee on special education in each of its
51 community school districts, provided that appointments to the community
52 school district committees shall be made upon the approval of the commu-
53 nity school board except that the board of education of the city school
54 district of the city of New York, may establish one committee to serve
55 more than one community school district, in which case, appointments
56 thereto shall be made upon the joint approval of the affected community

1 school boards; provided, however, that prior to such consolidation, the
2 board shall consider the relative caseload of the committee on special
3 education in each affected community school district, including but not
4 limited to the following factors: the number of students evaluated by
5 such committee; the number of referrals to special education in such
6 community school district; the ability to comply with mandated paperwork
7 and timelines; and other issues which the board deems pertinent.

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

35 (b) In determining the composition of such committee pursuant to
36 clause (a) of this subparagraph, a school district may determine that a
37 member appointed pursuant to one of subclause (ii), (iii), (iv), (v) or
38 [(ix)] (VIII) of clause (a) of this subparagraph also fulfills the
39 requirement of subclause (vi) of clause (a) of this subparagraph of a
40 member who is an individual who can interpret the instructional impli-
41 cations of evaluation results where such individuals are determined by
42 the school district to have the knowledge and expertise to do so and/or
43 that a member appointed pursuant to subclause (iii) or (iv) of clause
44 (a) of this subparagraph also fulfills the requirement of subclause (v)
45 of clause (a) of this subparagraph of a member who is a representative
46 of the school district. The regular education teacher of the student
47 shall participate in the development, review and revision of the indi-
48 vidualized education program for the student, to the extent required
49 under federal law. [The school physician need not be in attendance at
50 any meeting of the committee on special education unless specifically
51 requested in writing, at least seventy-two hours prior to such meeting
52 by the parents or other person in parental relation to the student in
53 question, the student, or a member of the committee on special educa-
54 tion. The parents or persons in parental relation of the student in
55 question shall receive proper written notice of their right to have the
56 school physician attend the meetings of the committee on special educa-

tion upon referral of said student to the committee on special education or whenever such committee plans to modify or change the identification, evaluation or educational placement of the student.] The additional parent need not be in attendance at any meeting of the committee on special education unless specifically requested in writing, at least seventy-two hours prior to such meeting by the parents or other person in parental relation to the student in question, the student, or a member of the committee on special education. The parents or persons in parental relation of the student in question shall receive proper written notice of their right to have an additional parent attend any meeting of the committee regarding the student along with a statement, prepared by the department, explaining the role of having the additional parent attend the meeting. The committee shall invite the appropriate professionals most familiar with a student's disability or disabilities to attend any meeting concerning the educational program for such student. Except as otherwise provided in this clause or clause (b-1) or (b-2) of this subparagraph, all members of such committee shall attend meetings of the committee on special education.

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

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

S 29. Clause (b) of subparagraph 1 of paragraph b of subdivision 1 of section 4402 of the education law, as amended by section 2 of chapter 276 of the laws of 2012, is amended to read as follows:

(b) In determining the composition of such committee pursuant to clause (a) of this subparagraph, a school district may determine that a member appointed pursuant to one of subclause (ii), (iii), (iv), (v) or [(ix)] (VIII) of clause (a) of this subparagraph also fulfills the requirement of subclause (vi) of clause (a) of this subparagraph of a member who is an individual who can interpret the instructional implications of evaluation results where such individuals are determined by the school district to have the knowledge and expertise to do so and/or that a member appointed pursuant to subclause (iii) or (iv) of clause (a) of this subparagraph also fulfills the requirement of subclause (v) of clause (a) of this subparagraph of a member who is a representative of the school district. The regular education teacher of the student shall participate in the development, review and revision of the individualized education program for the student, to the extent required under federal law. [The school physician need not be in attendance at any meeting of the committee on special education unless specifically requested in writing, at least seventy-two hours prior to such meeting by the parents or other person in parental relationship to the student]

1 in question, the student, or a member of the committee on special educa-
2 tion. The parents or persons in parental relationship of the student in
3 question shall receive proper written notice of their right to have the
4 school physician attend the meetings of the committee on special educa-
5 tion upon referral of said student to the committee on special education
6 or whenever such committee plans to modify or change the identification,
7 evaluation or educational placement of the student.] The additional
8 parent need not be in attendance at any meeting of the committee on
9 special education unless specifically requested in writing, at least
10 seventy-two hours prior to such meeting by the parents or other person
11 in parental relation to the student in question, the student, or a
12 member of the committee on special education. The parents or persons in
13 parental relation of the student in question shall receive proper writ-
14 ten notice of their right to have an additional parent attend any meet-
15 ing of the committee regarding the student along with a statement,
16 prepared by the department, explaining the role of having the additional
17 parent attend the meeting. The committee shall invite the appropriate
18 professionals most familiar with a student's disability or disabilities
19 to attend any meeting concerning the educational program for such
20 student. Members of such committee shall serve at the pleasure of such
21 board and members who are neither employees of nor under contract with
22 such district shall serve without compensation except that such members
23 shall be entitled to a per diem to defray expenses incurred in such
24 service, provided, however, that any expense incurred shall be deemed an
25 aidable operating expense for purposes of state aid.

26 S 30. Clause (d) of subparagraph 1 of paragraph b of subdivision 1 of
27 section 4402 of the education law is REPEALED.

28 S 31. Clause (d-2) of subparagraph 3 of paragraph b of subdivision 1
29 of section 4402 of the education law is REPEALED.

30 S 32. Subparagraphs 5 and 7 of paragraph b of subdivision 1 of section
31 4402 of the education law, subparagraph 5 as amended by chapter 256 of
32 the laws of 1988 and subparagraph 7 as amended by chapter 194 of the
33 laws of 1991, are amended to read as follows:

34 (5) The committee on special education or, in the case of a state
35 operated school, the multidisciplinary team shall [provide written
36 notice that a child who is placed in those residential programs speci-
37 fied in paragraphs d, g, h and l of subdivision two of section forty-
38 four hundred one of this article is not entitled to receive tuition free
39 educational services after the age of twenty-one, the receipt of a high
40 school diploma or the time described in subdivision five of this
41 section. Such written notice shall be provided to the child and to the
42 parents or legal guardian of such child when such child attains the age
43 of eighteen or, if such child is over the age of eighteen when placed in
44 such a residential program, at the time of placement. Upon the first
45 annual review after the age of fifteen of a child who is receiving non-
46 residential special services or programs as specified in paragraph a, b,
47 c, d, e, f, i, j, l or m of subdivision two of section forty-four
48 hundred one of this article, or is receiving special services or
49 programs in a day program at the human resources school; is receiving
50 such special services or programs one hundred per centum of the school
51 day; is receiving individualized attention or intervention because of
52 intensive management needs or a severe handicap; and, as determined by
53 the committee on special education or multidisciplinary team pursuant to
54 regulations promulgated by the commissioner, may need adult services
55 from the office of mental health, office of mental retardation and
56 developmental disabilities, the state department of social services, a

1 social services district, or the state education department, the commit-
2 tee or multidisciplinary team shall provide to such child's parent or
3 guardian, and if such child is eighteen years of age or older, to the
4 child, written notice that such child is not entitled to receive tuition
5 free educational services after the receipt of a high school diploma,
6 the age of twenty-one or the time described in subdivision five of this
7 section.] NOT LATER THAN THE ANNUAL REVIEW PRIOR TO THE EIGHTEENTH
8 BIRTHDAY OF A STUDENT WITH A DISABILITY WHO IS PLACED IN A RESIDENTIAL
9 PROGRAM BY THE COMMITTEE OR MULTIDISCIPLINARY TEAM, OR A STUDENT WITH A
10 DISABILITY WHO IS PLACED IN A DAY PROGRAM BUT THE COMMITTEE OR MULTIDIS-
11 CIPLINARY TEAM HAS DETERMINED THAT THE STUDENT IS LIKELY TO REQUIRE
12 ADULT RESIDENTIAL SERVICES, WITH THE CONSENT OF THE PARENTS, NOTIFY AND
13 INVITE A REPRESENTATIVE OF THE OFFICE OF MENTAL HEALTH, OFFICE FOR
14 PEOPLE WITH DEVELOPMENTAL DISABILITIES, OR THE STATE EDUCATION DEPART-
15 MENT, AS APPROPRIATE, TO PARTICIPATE IN THE COMMITTEE ON SPECIAL EDUCA-
16 TION MEETING FOR THE DEVELOPMENT OF A RECOMMENDATION FOR ADULT SERVICES
17 PURSUANT TO SECTION 7.37 OR 13.37 OF THE MENTAL HYGIENE LAW, SECTION
18 THREE HUNDRED NINETY-EIGHT-C OF THE SOCIAL SERVICES LAW OR SECTION
19 FORTY-FOUR HUNDRED THREE OF THIS ARTICLE. THE COMMITTEE OR MULTIDISCI-
20 PLINARY TEAM SHALL GIVE THE PARENT OR GUARDIAN OF THE CHILD, THE OPPOR-
21 TUNITY TO CONSENT IN WRITING TO THE RELEASE OF RELEVANT INFORMATION TO
22 SUCH OTHER PUBLIC AGENCY OR AGENCIES, UPON REQUEST OF SUCH AGENCY OR
23 AGENCIES, FOR PURPOSES OF DETERMINING APPROPRIATENESS OF AN ADULT
24 PROGRAM FOR SUCH STUDENT.

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

49 (b) Upon consent obtained pursuant to [clause (c) of] this subpara-
50 graph, the committee or multidisciplinary team shall forward the
51 [child's] STUDENT'S name and other relevant information in a report to
52 the [commissioner of mental health, commissioner of mental retardation
53 and developmental disabilities, commissioner of social services, or
54 commissioner of education, or their designees, for the development of a
55 recommendation for adult services pursuant to section 7.37 or 13.37 of
56 the mental hygiene law, section three hundred ninety-eight-c of the

1 social services law or subdivision ten of section forty-four hundred
2 three of this article. The] APPROPRIATE PUBLIC AGENCY AS DETERMINED BY
3 THE committee or multidisciplinary team [shall determine which commis-
4 sioner shall receive the report by considering], BASED UPON the [child's
5 handicapping condition] STUDENT'S DISABILITY and physical, mental,
6 emotional and social needs. The committee shall forward additional and
7 updated relevant information to the [commissioner of mental health,
8 commissioner of mental retardation and developmental disabilities,
9 commmissioner of social services, or commissioner of education, or their
10 designees,] APPROPRIATE PUBLIC AGENCY upon the request for such informa-
11 tion by such [commissioner or designee] AGENCY, WITH THE CONSENT OF THE
12 PARENTS, OR THE STUDENT, IF SUCH STUDENT IS EIGHTEEN YEARS OR OLDER.

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

32 (d)] When the committee or multidisciplinary team is notified by the
33 [commissioner who] PUBLIC AGENCY WHICH received the report that such
34 state agency is not responsible for determining and recommending adult
35 services for the child, the committee or multidisciplinary team shall
36 forward the report to another [commissioner] PUBLIC AGENCY; or, if the
37 committee or multidisciplinary team determines that there exists a
38 dispute as to which state agency has the responsibility for determining
39 and recommending adult services, the committee or multidisciplinary team
40 may forward the report to the council on children and families for a
41 resolution of such dispute.

42 [(e) The committee and multidisciplinary team shall prepare and submit
43 an annual report to the state education department on or before October
44 first of each year. Such annual report shall contain the number of cases
45 submitted to each commissioner pursuant to clause (b) or (d) of this
46 subparagraph, the type and severity of the handicapping condition
47 involved with each such case, the number of notices received which deny
48 responsibility for determining and recommending adult services, and
49 other information necessary for the state education department and the
50 council on children and families to monitor the need for adult services.
51 Such annual report shall not contain individually identifying informa-
52 tion. The state education department shall forward a copy of such annual
53 report to the council on children and families. All information received
54 by the council on children and families pursuant to this subparagraph
55 shall be subject to the confidentiality requirements of the department.

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

(7)] (6) The committee on special education shall provide a copy of the handbook for parents of children with [handicapping conditions] DISABILITIES established under subdivision eight of section four thousand four hundred three of this article or a locally approved [handicapped] booklet FOR PARENTS OF CHILDREN WITH DISABILITIES to the parents or person in parental relationship to a child as soon as practicable after such child has been referred for evaluation to the committee on special education.

S 33. Paragraph d of subdivision 4 of section 4402 of the education law, as amended by chapter 646 of the laws of 1992, is amended to read as follows:

d. Notwithstanding any other provision of law, such board shall provide suitable transportation up to a distance of fifty miles to and from a nonpublic school which a [child] STUDENT with a [handicapping condition] DISABILITY attends if such [child] STUDENT has been so identified by the local committee on special education and such [child] STUDENT attends such school for the purpose of receiving services or programs FROM SUCH NONPUBLIC SCHOOL THAT ARE similar to special [educational programs] EDUCATION PROGRAMS AND SERVICES recommended for such [child] STUDENT by the local committee on special education. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, A NONPUBLIC STUDENT RECEIVING TRANSPORTATION PURSUANT TO THIS PARAGRAPH SHALL NOT BE ENTITLED TO SPECIAL EDUCATION PROGRAMS AND SERVICES FROM THE SCHOOL DISTRICT OF LOCATION PURSUANT TO SECTION THIRTY-SIX HUNDRED TWO-C OF THIS CHAPTER. AS A CONDITION OF ELIGIBILITY FOR SUCH TRANSPORTATION, THE PARENT OR PERSON IN PARENTAL RELATION TO THE STUDENT SHALL CONSENT TO THE PROVISION OF NOTICE BY THE SCHOOL DISTRICT OF RESIDENCE TO THE CHAIRPERSON OF THE COMMITTEE ON SPECIAL EDUCATION OF THE SCHOOL DISTRICT IN WHICH THE NONPUBLIC SCHOOL IS LOCATED IDENTIFYING SUCH STUDENT, BY NAME, ADDRESS AND SCHOOL OF ATTENDANCE, AS A STUDENT RECEIVING TRANSPORTATION PURSUANT TO THIS PARAGRAPH. THE SCHOOL DISTRICT OF RESIDENCE SHALL PROVIDE SUCH NOTICE NO LATER THAN THIRTY DAYS AFTER COMMENCING SUCH TRANSPORTATION.

S 34. Paragraph a of subdivision 1 of section 4404 of the education law, as amended by chapter 430 of the laws of 2006, is amended to read as follows:

a. If the parent or person in parental relation of a student, the board of education or trustees of a school district or a state agency responsible for providing education to students with disabilities presents a complaint with respect to any matter relating to the identification, evaluation or educational placement of the student or the provision of a free appropriate public education to the student or a manifestation determination or other matter relating to placement upon discipline of a student with a disability that may be the subject of an impartial hearing pursuant to subsection (k) of section fourteen hundred fifteen of title twenty of the United States code and the implementing federal regulations, and the party presenting the complaint or their attorney provides a due process complaint notice in accordance with federal law and regulations and such complaint sets forth an alleged violation that occurred not more than [two years] ONE YEAR before the date the parent or public agency knew or should have known about the alleged action that forms the basis for the complaint, OR IN THE CASE OF A COMPLAINT SEEKING TUITION REIMBURSEMENT FOR THE UNILATERAL PARENTAL

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

35 S 35. Paragraph b of subdivision 4 of section 4410 of the education
36 law, as added by chapter 243 of the laws of 1989, is amended to read as
37 follows:

38 b. Each board shall, within time limits established by the commission-
39 er, be responsible for providing the parent of a preschool child
40 suspected of having a [handicapping condition] DISABILITY with a list of
41 approved evaluators in the geographic area. The [parent may select the
42 evaluator from such list] SCHOOL DISTRICT SHALL, AFTER PROVIDING THE
43 PARENT WITH A LIST OF APPROVED PRESCHOOL EVALUATORS AND OBTAINING PARENT
44 CONSENT TO EVALUATE, ARRANGE FOR AN EVALUATION BY THE SERVICE PROVIDER
45 SELECTED BY THE DISTRICT WHO CAN PROVIDE THE EVALUATION OF THE STUDENT
46 WITHIN THE TIMELINE REQUIRED BY THE DEPARTMENT. IN SELECTING THE EVALU-
47 ATOR, THE DISTRICT SHALL CONSIDER THE PARENT'S EXPRESSED PREFERENCE, IF
48 ANY, FOR THE EVALUATOR. Each board shall provide for dissemination of
49 the list and other information to parents at appropriate sites including
50 but not limited to pre-kindergarten, day care, head start programs and
51 early childhood direction centers, pursuant to regulations of the
52 commissioner.

53 S 36. Paragraphs (a) and (c) of subdivision 9-a of section 4410 of the
54 education law, paragraph (a) as amended by chapter 581 of the laws of
55 2011 and paragraph (c) as added by chapter 82 of the laws of 1995, are
56 amended to read as follows:

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

Such application shall include, but not be limited to, a description of the multi-disciplinary evaluation services proposed to be provided and a demonstration that all agency employees and staff who provide such evaluation services shall have appropriate licensure and/or certification and that the individual who shall have direct supervision responsibilities over such staff shall have an appropriate level of experience in providing evaluation or services to preschool or kindergarten-aged children with disabilities. To be eligible for approval as an evaluator under this subdivision on and after July first, two thousand eleven, a group of appropriately licensed or certified professionals shall be formed as a limited liability company or professional services corporation established pursuant to article fifteen of the business corporation law, article twelve or thirteen of the limited liability company law or article eight-B of the partnership law. The approval of any groups of licensed or certified professionals that are in existence on July first, two thousand eleven and would not be eligible for approval thereafter shall terminate on July first, two thousand thirteen.

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

S 37. Paragraph c of subdivision 1 of section 4410-b of the education law, as added by chapter 6 of the laws of 2000, is amended to read as follows:

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

S 38. This act shall take effect July 1, 2016, provided that if this act shall become a law after such date, it shall take effect immediately and shall be deemed to have been in full force and effect on and after July 1, 2016 and provided further, nothing in section six of this act shall be construed to require the retrofitting of school buses purchased prior to the effective date of this act, and provided further that:

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

(b) the amendments to paragraph (a) of subdivision 4 of section 2853 of the education law made by section ten of this act shall be subject to the expiration and reversion of such paragraph pursuant to chapter 378 of the laws of 2007, as amended, when upon such date the provisions of section eleven of this act shall take effect;

1 (c) the amendments to subdivision 2 of section 3602-c of the education
2 law made by section twelve of this act shall not affect the expiration
3 of such subdivision and shall be deemed to expire therewith;

4 (d) the amendments to subparagraph 2 of paragraph b of subdivision 1
5 of section 4402 of the education law made by section twenty-one of this
6 act shall be subject to the expiration and reversion of such subpara-
7 graph pursuant to chapter 352 of the laws of 2005, as amended, when upon
8 such date the provisions of section twenty-two of this act shall take
9 effect;

10 (e) the amendments to clause (b) of subparagraph 1 of paragraph b of
11 subdivision 1 of section 4402 of the education law made by section twen-
12 ty-eight of this act shall be subject to the expiration and reversion of
13 such clause pursuant to chapter 378 of the laws of 2007, as amended,
14 when upon such date the provisions of section twenty-nine of this act
15 shall take effect;

16 (f) the amendments to paragraph a of subdivision 1 of section 4404 of
17 the education law made by section thirty-four of this act shall not
18 affect the expiration of such subdivision and shall be deemed to expire
19 therewith; and

20 (g) the amendments to paragraphs (a) and (c) of subdivision 9-a of
21 section 4410 of the education law made by section thirty-six of this act
22 shall not affect the repeal of such subdivision and shall be deemed
23 repealed therewith.