

4330

2015-2016 Regular Sessions

I N A S S E M B L Y

January 30, 2015

Introduced by M. of A. SIMON, BRENNAN, BROOK-KRASNY, DINOWITZ, MILLER, MOSLEY, SEAWRIGHT, TITONE, TEDISCO -- Multi-Sponsored by -- M. of A. ABBATE, CLARK, DUPREY, GIGLIO, GLICK, HEASTIE, HEVESI, HIKIND -- read once and referred to the Committee on Education

AN ACT to amend the education law, in relation to the certification or training of teachers, administrators and instructors in the area of dyslexia and related disorders

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

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

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

17 B. FOR THE PURPOSES OF THIS SECTION, THE TERM "DYSLEXIA" SHALL MEAN A
18 SPECIFIC LEARNING DISORDER THAT IS NEUROLOGICAL IN ORIGIN AND THAT IS
19 CHARACTERIZED BY UNEXPECTED DIFFICULTIES WITH ACCURATE OR FLUENT WORD
20 RECOGNITION AND BY POOR SPELLING AND DECODING ABILITIES NOT CONSISTENT
21 WITH THE PERSON'S INTELLIGENCE, MOTIVATION, AND SENSORY CAPABILITIES,
22 WHICH DIFFICULTIES TYPICALLY RESULT FROM A DEFICIT IN THE PHONOLOGICAL
23 COMPONENT OF LANGUAGE.

24 S 2. Clause (a) and subclause (i) of clause (b) of subparagraph 3 of
25 paragraph b of subdivision 1 of section 4402 of the education law,

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

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1 clause (a) as amended by chapter 53 of the laws of 1991 and subclause
2 (i) of clause (b) as amended by chapter 378 of the laws of 2007, are
3 amended to read as follows:

4 (a) Obtain, review and evaluate all relevant information, including
5 but not limited to that presented by the parent, person in parental
6 relationship and teacher, pertinent to each child suspected of or iden-
7 tified as having a handicapping condition, including the results of a
8 physical examination performed in accordance with sections nine hundred
9 three, nine hundred four and nine hundred five of this chapter and,
10 where determined to be necessary by a school psychologist, an appropri-
11 ate psychological evaluation performed by a qualified private or school
12 psychologist, and other appropriate assessments as necessary to ascer-
13 tain the physical, mental, emotional and cultural-educational factors
14 which may contribute to the suspected or identified handicapping condi-
15 tion, and all other school data which bear on the child's progress,
16 including, where appropriate, observation of classroom performance. IF
17 THE COMMITTEE OR SUBCOMMITTEE HAS REASON TO BELIEVE THAT THE HANDICAP-
18 PING CONDITION MAY INVOLVE DYSLEXIA, AS DEFINED IN PARAGRAPH B OF SUBDI-
19 VISION SEVEN OF SECTION THREE THOUSAND FOUR OF THIS CHAPTER, OR A
20 RELATED DISORDER, THE CHILD SHALL BE EVALUATED AND TESTED ACCORDING TO
21 CURRENT SCIENTIFIC UNDERSTANDING OF DYSLEXIA TO DETERMINE WHETHER THE
22 CHILD HAS DYSLEXIA OR A RELATED DISORDER.

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

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

49 (b) Make recommendations based upon a written evaluation setting forth
50 the reasons for the recommendations, to the child's parent or person in
51 parental relationship and board of education or trustees as to appropri-
52 ate educational programs and placement in accordance with the provisions
53 of subdivision six of section forty-four hundred one-a of this article,
54 and as to the advisability of continuation, modification, or termination
55 of special class or program placements which evaluation shall be
56 furnished to the child's parent or person in parental relationship

1 together with the recommendations provided, however that the committee
2 may recommend a placement in a school which uses psychotropic drugs only
3 if such school has a written policy pertaining to such use and that the
4 parent or person in parental relationship is given such written policy
5 at the time such recommendation is made. IF THE CHILD IS DETERMINED TO
6 HAVE DYSLEXIA, AS DEFINED IN PARAGRAPH B OF SUBDIVISION SEVEN OF SECTION
7 THREE THOUSAND FOUR OF THIS CHAPTER, OR A RELATED DISORDER, THE RECOM-
8 MENDATIONS SHALL BE MADE BY A TEAM THAT IS KNOWLEDGEABLE IN THE INSTRU-
9 TIONAL COMPONENTS AND APPROACHES FOR STUDENTS WITH DYSLEXIA. If such
10 recommendation is not acceptable to the parent or person in parental
11 relationship, such parent or person in parental relationship may appeal
12 such recommendation as provided for in section forty-four hundred four
13 of this [chapter] ARTICLE.

14 S 4. Paragraph a of subdivision 2 of section 4402 of the education
15 law, as amended by section 16-a of part A of chapter 56 of the laws of
16 2014, is amended to read as follows:

17 a. The board of education or trustees of each school district shall be
18 required to furnish suitable educational opportunities for students with
19 disabilities by one of the special services or programs listed in subdi-
20 vision two of section forty-four hundred one of this article. The need
21 of the individual child shall determine which of such services shall be
22 rendered. IF THE STUDENT IS A STUDENT WITH DYSLEXIA OR A RELATED DISOR-
23 DER, THE DISTRICT SHALL BE REQUIRED TO PROVIDE TO SUCH STUDENT THE
24 SERVICES OF A TEACHER OR INSTRUCTOR TRAINED IN DYSLEXIA AND RELATED
25 DISORDERS PURSUANT TO SUBDIVISION SEVEN OF SECTION THREE THOUSAND FOUR
26 OF THIS CHAPTER. Each district shall provide to the maximum extent
27 appropriate such services in a manner which enables students with disa-
28 bilities to participate in regular education services when appropriate.
29 Such services or programs shall be furnished between the months of
30 September and June of each year, except that for the nineteen hundred
31 eighty-seven--eighty-eight school year and thereafter, with respect to
32 the students whose disabilities are severe enough to exhibit the need
33 for a structured learning environment of twelve months duration to main-
34 tain developmental levels, the board of education or trustees of each
35 school district upon the recommendation of the committee on special
36 education shall also provide, either directly or by contract, for the
37 provision of special services and programs as defined in section forty-
38 four hundred one of this article during the months of July and August as
39 contained in the individualized education program for each eligible
40 student, and with prior approval by the commissioner if required;
41 provided that a student with a disability who is eligible for services,
42 including services during the months of July and August, pursuant to
43 section forty-four hundred ten of this article shall not be eligible to
44 receive services pursuant to this paragraph during the months of July
45 and August.

46 S 5. This act shall take effect on the thirtieth day after it shall
47 have become a law, provided that the amendments to subclause (i) of
48 clause (b) of subparagraph 3 of paragraph b of subdivision 1 of section
49 4402 of the education law made by section two of this act shall be
50 subject to the expiration and reversion of such clause pursuant to
51 section 22 of chapter 352 of the laws of 2005, as amended, and subdivi-
52 sion d of section 27 of chapter 378 of the laws of 2007, as amended,
53 when upon such date the provisions of section three of this act shall
54 take effect.