

5060--A

2015-2016 Regular Sessions

I N   A S S E M B L Y

February 11, 2015

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Introduced by M. of A. NOLAN, CUSICK -- (at request of the State Education Department) -- read once and referred to the Committee on Education -- recommitted to the Committee on Education in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to establishing Earth day; 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

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

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education law relating to reports on certain children of Vietnam veterans; to repeal clause (d) of subparagraph 1 of paragraph b of subdivision 1 of section 4402 of the education law relating to subcommittees on special education; and to repeal clause (d-2) of subparagraph 3 of paragraph b of subdivision 1 of section 4402 of the education law relating to the requirement that boards of education develop plans and policies for appropriate declassification of students with disabilities

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

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

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

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

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

S 2. 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,

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

1 N.J. area, based upon the index for all urban consumers (CPI-U), during  
2 the preceding twelve month period, provided it has been satisfactorily  
3 established by the contractor that there has been at least an equivalent  
4 increase in the amount of his cost of operation, during the period of  
5 the contract.

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

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

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

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

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

52 1. In addition to meeting other criteria and requirements of law  
53 governing approval, development, financing and state aid for the  
54 construction of new or expanded public infrastructure or the recon-  
55 struction thereof, no state infrastructure agency shall approve, under-  
56 take, support or finance a public infrastructure project, including

1 providing grants, awards, loans or assistance programs, unless, to the  
2 extent practicable, it is consistent with the relevant criteria speci-  
3 fied in subdivision two of this section. NOTWITHSTANDING THE PROVISIONS  
4 OF THIS SUBDIVISION OR ANY OTHER PROVISION OF THIS ARTICLE TO THE  
5 CONTRARY, PROJECTS FOR THE RECONSTRUCTION, RENOVATION, REPAIR OR  
6 IMPROVEMENT OF EXISTING PUBLIC SCHOOL FACILITIES OR EXISTING LIBRARY  
7 FACILITIES, AND PROJECTS FOR THE CONSTRUCTION OF NEW OR EXPANDED PUBLIC  
8 SCHOOL OR LIBRARY FACILITIES IN CITIES HAVING A POPULATION OF ONE  
9 HUNDRED TWENTY-FIVE THOUSAND INHABITANTS OR MORE, SHALL NOT BE DEEMED  
10 PUBLIC INFRASTRUCTURE PROJECTS SUBJECT TO THE REQUIREMENTS OF THIS ARTI-  
11 CLE.

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

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

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

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

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

54 S 8. The commissioner of education, in consultation with the office of  
55 the state comptroller, shall conduct a study of the feasibility and  
56 desirability of authorizing school districts and boards of cooperative

educational services to enter national credit card contracts as a cost-saving measure, with appropriate safeguards. The commissioner of education shall submit a report to the board of regents, the governor and the legislature by no later than January 15, 2017, with recommendations on whether and under what conditions such credit card contracts should be authorized and identifying any legislative or regulatory changes that would be needed to authorize such credit card contracts.

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

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

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

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

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

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

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

a. "Services" shall mean instruction in the areas of gifted pupils, career education and education for students with disabilities, and counseling, psychological and social work services related to such instruc-

tion provided during the regular school year for pupils enrolled in a nonpublic school located in a school district, INCLUDING SPECIAL EDUCATION PROGRAMS AND RELATED SERVICES AS DEFINED IN SUBDIVISION TWO OF SECTION FORTY-FOUR HUNDRED ONE OF THIS CHAPTER OTHER THAN AN APPROVED PRIVATE RESIDENTIAL OR NON-RESIDENTIAL SCHOOL FOR THE EDUCATION OF STUDENTS WITH DISABILITIES, provided that such instruction is given to pupils enrolled in the public schools of such district. SUCH TERM SHALL ALSO INCLUDE EDUCATION FOR STUDENTS WITH DISABILITIES ENROLLED IN SUCH A NONPUBLIC SCHOOL WHICH IS PROVIDED IN JULY AND AUGUST IN ACCORDANCE WITH PARAGRAPH E OF SUBDIVISION TWO OF THIS SECTION.

a. Boards of education of all school districts of the state shall furnish services to students who are residents of this state and who attend nonpublic schools located in such school districts, upon the written request of the parent or person in parental relation of any such student. Such a request for career education or services to gifted students shall be filed with the board of education of the school district in which the parent or person in parental relation of the student resides on or before the first day of June preceding the school year for which the request is made. In the case of education for students with disabilities, such a request shall be filed with the trustees or board of education of the school district of location on or before the first of [June] APRIL preceding the school year for which the request is made[, or by July first, two thousand seven for the two thousand seven--two thousand eight school year only,] FOR THOSE STUDENTS FOR WHOM AN INDIVIDUALIZED EDUCATION SERVICE PROGRAM WAS DEVELOPED AND IMPLEMENTED PURSUANT TO THIS SECTION PRIOR TO SUCH DATE, AND ON OR BEFORE THE FIRST OF JUNE PRECEDING THE SCHOOL YEAR FOR WHICH THE REQUEST IS MADE FOR THOSE STUDENTS WHO WILL BE FIRST RECEIVING EDUCATION FOR STUDENTS WITH DISABILITIES PURSUANT TO THIS SECTION IN THE SCHOOL YEAR FOR WHICH THE REQUEST IS MADE OR FOR WHOM AN INDIVIDUALIZED EDUCATION SERVICE PROGRAM IS FIRST DEVELOPED AND IMPLEMENTED ON OR AFTER APRIL FIRST AND ON OR BEFORE JUNE FIRST; provided that where a student is first identified as a student with a disability after the first day of June preceding the school year for which the request is made, [or thirty days after the chapter of the laws of two thousand seven which amended this paragraph, takes effect where applicable, and prior to the first day of April of such current school year,] such request shall be submitted within thirty days after AN INDIVIDUALIZED EDUCATION SERVICE PROGRAM IS DEVELOPED FOR such student [is first identified. For students first identified after March first of the current school year, any such request for education for students with disabilities in the current school year that is submitted on or after April first of such current school year, shall be deemed a timely request for such services in the following school year].

(1) For the purpose of obtaining education for students with disabilities, as defined in paragraph d of subdivision one of this section, such request shall be reviewed by the committee on special education of the school district of location, which shall develop an individualized education service program for the student based on the student's individual needs in the same manner and with the same contents as an individualized education program, EXCEPT AS OTHERWISE PROVIDED IN THIS SUBPARAGRAPH. The committee on special education shall assure that special education programs and services are made available to students with disabilities attending nonpublic schools located within the school district on an equitable basis, as compared to special education programs and services provided to other students with disabilities

1 attending public or nonpublic schools located within the school  
2 district, EXCEPT THAT THERE SHALL BE NO ENTITLEMENT UNDER THIS SECTION  
3 TO THE PROVISION OF A SPECIAL CLASS OR INTEGRATED CO-TEACHING SERVICES,  
4 AS SUCH TERMS ARE DEFINED IN THE REGULATIONS OF THE COMMISSIONER, BY THE  
5 SCHOOL DISTRICT OF LOCATION FOR ALL OR PART OF THE SCHOOL DAY. Review of  
6 the recommendation of the committee on special education may be obtained  
7 by the parent or person in parental relation of the pupil pursuant to  
8 the provisions of section forty-four hundred four of this chapter;  
9 PROVIDED THAT A DUE PROCESS COMPLAINT, OTHER THAN A DUE PROCESS  
10 COMPLAINT RELATING TO CHILD FIND REQUIREMENTS BROUGHT PURSUANT TO PARA-  
11 GRAPH C OF THIS SUBDIVISION, SUBMITTED ON OR AFTER SEPTEMBER FIRST, TWO  
12 THOUSAND TWELVE SHALL BE SUBMITTED TO MEDIATION PURSUANT TO SECTION  
13 FORTY-FOUR HUNDRED FOUR-A OF THIS CHAPTER AND AT LEAST ONE MEDIATION  
14 SESSION SHALL BE HELD PRIOR TO MAKING A REQUEST FOR AN IMPARTIAL HEARING  
15 IN ACCORDANCE WITH A TIMELINE PRESCRIBED BY THE COMMISSIONER.

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

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

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

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

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

41 a. To inquire into the organization of the several schools and the  
42 methods of instruction employed therein.

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

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

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

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

55 [f.] E. To make an annual report to the legislature on all of the  
56 matters enumerated in this subdivision and particularly as to the condi-



tion of the schools, the improvement of the pupils, and their treatment in respect to board and lodging.

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

S 4203. Persons eligible for [appointment] ENROLLMENT as pupils to institutions for instruction of the deaf. All deaf children resident in this state, of the age of three years and upwards and of suitable capacity, and who shall have been resident in this state for one year immediately preceding the application, or, if an orphan, whose nearest friend shall have been resident in this state for one year immediately preceding the application, shall be eligible [to appointment] FOR ENROLLMENT as [state] pupils in one of the institutions for the instruction of the deaf of this state, authorized by law to receive such pupils; provided, however, the foregoing requirement as to length of residence in this state may be waived in the discretion of the commissioner [of education]. PLACEMENT IN SUCH INSTITUTIONS SHALL BE RECOMMENDED BY THE COMMITTEE ON SPECIAL EDUCATION, OR COMMITTEE ON PRESCHOOL SPECIAL EDUCATION WHERE APPLICABLE, OF THE SCHOOL DISTRICT RESPONSIBLE FOR EDUCATING SUCH PUPIL, AND SUCH RECOMMENDATION MAY INCLUDE THE PROVISION OF SPECIAL EDUCATION PROGRAMS AND SERVICES IN JULY OR AUGUST IN ACCORDANCE WITH THE PROVISIONS OF PARAGRAPH A OF SUBDIVISION TWO OF SECTION FORTY-FOUR HUNDRED TWO OF THIS CHAPTER.

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

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

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

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

2. Blind babies and children of the age of fifteen years and under and possessing the other qualifications prescribed in this article and requiring kindergarten training or other special care and instruction, shall be eligible for [appointment] ENROLLMENT as [state] pupils [by the commissioner of education at his discretion] in any incorporated institution furnishing approved care, training and instruction for blind babies and children, and any such child may be transferred to the New York Institute for Special Education in the city of New York or the

Lavelle School for the Blind in the city of New York, to which he or she would otherwise be eligible for [appointment] ENROLLMENT, upon arriving at suitable age[, in the discretion of the commissioner of education].

3. [All such appointments shall be made by the commissioner of education.] The requirement of this section as to length of residence in this state may be waived in the discretion of the commissioner [of education].

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

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

3. The regular term of instruction of any such blind pupil in the New York Institute for Special Education shall be eight years. The [commissioner] COMMITTEE ON SPECIAL EDUCATION OF THE SCHOOL DISTRICT RESPONSIBLE FOR THE EDUCATION OF THE PUPIL, WITH THE CONSENT OF THE TRUSTEES OF THE NEW YORK INSTITUTE FOR SPECIAL EDUCATION, may in [his] ITS discretion [extend] RECOMMEND THE EXTENSION OF the term of any pupil for a period not exceeding three years. It shall also be lawful for the [commissioner] COMMITTEE to continue such pupils [as state pupils] for an additional period of three years for the purpose of pursuing or completing a course of high school study[; such pupils must be recommended by the trustees of the New York Institute for Special Education before such extension is granted].

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

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

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

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

d. Appointment by the commissioner to a state school in accordance with article eighty-seven or eighty-eight of this chapter or ENROLLMENT

1 IN a state-supported school in accordance with article eighty-five of  
2 this chapter.

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

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

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

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

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

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

47 S 24. The opening paragraph of subparagraph 3 and subparagraph 3-a of  
48 paragraph b of subdivision 1 of section 4402 of the education law, the  
49 opening paragraph of subparagraph 3 as amended by chapter 53 of the laws  
50 of 1991 and subparagraph 3-a as added by chapter 630 of the laws of  
51 2008, are amended to read as follows:

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

53 (3-a) The members of the committee [or subcommittee] may compile a  
54 list of appropriate and/or helpful services that may be available  
55 outside of the school setting to provide the parents or person in  
56 parental relation of a child with a disability with such information.

1 Such list shall clearly state that these services are in addition to  
2 services supplied by the school district and will not be paid for by the  
3 school district. Any member of a committee [or subcommittee] or his or  
4 her respective school district who, acting reasonably and in good faith,  
5 provides such information shall not be liable for such action.

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

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

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

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

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

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

43 S 28. The opening paragraph and clauses (a), (b) and (c) of subpara-  
44 graph 1 of paragraph b of subdivision 1 of section 4402 of the education  
45 law, the opening paragraph and clauses (a) and (c) as amended by chapter  
46 311 of the laws of 1999, subclause (viii) of clause (a) as amended by  
47 chapter 194 of the laws of 2004, clause (b) as amended by section 1 of  
48 chapter 276 of the laws of 2012 and the closing paragraph of clause (b)  
49 as amended by chapter 378 of the laws of 2007, are amended to read as  
50 follows:

51 The board of education or trustees of each school district shall  
52 establish committees [and/or subcommittees] on special education as  
53 necessary to ensure timely evaluation and placement of pupils. The board  
54 of education of the city school district of the city of New York, shall  
55 establish at least one committee on special education in each of its  
56 community school districts, provided that appointments to the community

1 school district committees shall be made upon the approval of the commu-  
2 nity school board except that the board of education of the city school  
3 district of the city of New York, may establish one committee to serve  
4 more than one community school district, in which case, appointments  
5 thereto shall be made upon the joint approval of the affected community  
6 school boards; provided, however, that prior to such consolidation, the  
7 board shall consider the relative caseload of the committee on special  
8 education in each affected community school district, including but not  
9 limited to the following factors: the number of students evaluated by  
10 such committee; the number of referrals to special education in such  
11 community school district; the ability to comply with mandated paperwork  
12 and timelines; and other issues which the board deems pertinent.

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

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

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

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

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

41 S 29. Clause (b) of subparagraph 1 of paragraph b of subdivision 1 of  
42 section 4402 of the education law, as amended by section 2 of chapter  
43 276 of the laws of 2012, is amended to read as follows:

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

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

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

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

35 S 32. Subparagraphs 5 and 7 of paragraph b of subdivision 1 of section  
36 4402 of the education law, subparagraph 5 as amended by chapter 256 of  
37 the laws of 1988 and subparagraph 7 as amended by chapter 194 of the  
38 laws of 1991, are amended to read as follows:

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

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

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

54 (b) Upon consent obtained pursuant to [clause (c) of] this subpara-  
55 graph, the committee or multidisciplinary team shall forward the  
56 [child's] STUDENT'S name and other relevant information in a report to



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

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

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

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

tion. The state education department shall forward a copy of such annual report to the council on children and families. All information received by the council on children and families pursuant to this subparagraph 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

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

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

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

1 S 36. Paragraphs (a) and (c) of subdivision 9-a of section 4410 of the  
2 education law, paragraph (a) as amended by chapter 581 of the laws of  
3 2011 and paragraph (c) as added by chapter 82 of the laws of 1995, are  
4 amended to read as follows:

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

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

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

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

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

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

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

54 (b) the amendments to paragraph (a) of subdivision 4 of section 2853  
55 of the education law made by section ten of this act shall be subject to  
56 the expiration and reversion of such paragraph pursuant to chapter 378

1 of the laws of 2007, as amended, when upon such date the provisions of  
2 section eleven of this act shall take effect;

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

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

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

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

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