

2597

2015-2016 Regular Sessions

I N   S E N A T E

January 26, 2015

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

AN ACT to amend the education law, in relation to requiring the office of state review to render decisions on certain appeals pertaining to children with handicapping conditions within thirty days of receipt of such appeals

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

1     Section 1. Paragraph d of subdivision 7 of section 4410 of the educa-  
2     tion law, as amended by section 57 of part H of chapter 83 of the laws  
3     of 2002, is amended to read as follows:  
4     d. (I) A state review officer of the education department shall review  
5     the decision of the impartial hearing officer in the manner prescribed  
6     in subdivision two of section forty-four hundred four of this article  
7     and render a decision no later than thirty days after the decision of  
8     such hearing officer.  
9     (II) APPEALS TAKEN TO THE OFFICE OF STATE REVIEW SHALL BE DECIDED IN  
10    THE ORDER IN WHICH THEY ARE RECEIVED. IN THE EVENT THAT THE STATE REVIEW  
11    OFFICER DOES NOT, WITHIN THIRTY DAYS, RENDER A FINAL DECISION AND  
12    FORWARD SUCH DECISION TO THE PARTIES, THEN THE DECISION OF THE IMPARTIAL  
13    HEARING OFFICER SHALL BE SUBSTITUTED FOR THE DECISION THAT SHOULD HAVE  
14    BEEN TIMELY RENDERED BY THE STATE REVIEW OFFICER AND DEEMED TO BE FINAL  
15    FOR ADMINISTRATIVE PURPOSES, WITHOUT PREJUDICE TO ANY FURTHER APPEAL  
16    THAT MAY BE TAKEN BY ANY AGGRIEVED PARTY TO THE FEDERAL COURT PURSUANT  
17    TO 34 C.F.R. S 300.516.  
18    S 2. Subdivision 2 of section 4404 of the education law, as amended by  
19    chapter 53 of the laws of 1990, is amended to read as follows:  
20    2. Review by state review officer. A. A state review officer of the  
21    education department shall review and may modify, in such cases and to  
22    the extent that the review officer deems necessary, in order to properly  
23    effectuate the purposes of this article, any determination of the impar-

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

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1 tial hearing officer relating to the determination of the nature of a  
2 child's handicapping condition, selection of an appropriate special  
3 education program or service and the failure to provide such program and  
4 require such board to comply with the provisions of such modification.  
5 The commissioner shall adopt regulations governing the practice and  
6 procedure in such appeals to the state review officer; provided, howev-  
7 er, that in no event shall any fee or charge whatsoever be imposed for  
8 any appeal taken pursuant to this subdivision. The state review officer  
9 is empowered to make all orders which are proper or necessary to give  
10 effect to the decision of the review officer.

11 B. APPEALS TAKEN TO THE OFFICE OF STATE REVIEW SHALL BE DECIDED IN THE  
12 ORDER IN WHICH THEY ARE RECEIVED. IN THE EVENT THAT THE STATE REVIEW  
13 OFFICER DOES NOT, WITHIN THIRTY DAYS, RENDER A FINAL DECISION AND  
14 FORWARD SUCH DECISION TO THE PARTIES, THEN THE DECISION OF THE IMPARTIAL  
15 HEARING OFFICER SHALL BE SUBSTITUTED FOR THE FINAL DECISION THAT SHOULD  
16 HAVE BEEN TIMELY RENDERED BY THE STATE REVIEW OFFICER AND DEEMED TO BE  
17 FINAL FOR ADMINISTRATIVE PURPOSES, WITHOUT PREJUDICE TO ANY FURTHER  
18 APPEAL THAT MAY BE TAKEN BY ANY AGGRIEVED PARTY TO THE FEDERAL COURT  
19 PURSUANT TO 34 C.F.R. S 300.516.

20 S 3. This act shall take effect immediately and shall apply equally to  
21 cases that have been pending before the office of state review for more  
22 than 30 days following the receipt of a request for a review without  
23 issuance of a decision as of the date this act shall have become a law  
24 and to cases in which the 30-day period elapses without issuance of a  
25 decision on or after the date this act shall have become a law.