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

4216

2015-2016 Regular Sessions

I N S E N A T E

March 11, 2015

Introduced by Sen. FLANAGAN -- (at request of the State Education Department) -- read twice and ordered printed, and when printed to be committed to the Committee on Education

AN ACT to amend the education law, in relation to establishing Earth day; in relation to mandate relief for school districts and certain other educational entities; in relation to removing references to subcommittees on special education; in relation to the provision of special education programs and services to students parentally placed in non-public schools through dual enrollment in the public schools; in relation to eliminating the requirement that the commissioner of education make appointments to state-supported schools; in relation to the committee on special education membership requirements; in relation to transportation of students with disabilities parentally placed in a private school; in relation to establishing that all school districts are approved evaluators of preschool students suspected of having a disability; in relation to the statute of limitations for special education due process hearings; in relation to the selection of a preschool evaluator; in relation to referrals to state adult service agencies for certain students with disabilities who have reached the age of 18; in relation to giving school districts or boards of cooperative educational services the option of advertising procurement bids in the state's opportunities newsletter; to amend the environmental conservation law, in relation to state smart growth public infrastructure criteria; to amend the vehicle and traffic law, in relation to school omnibus signs complying with federal motor vehicle safety standards; to authorize the commissioner of education to conduct a study of the feasibility and desirability of authorizing school districts and boards of cooperative educational services to enter national credit card contracts; to repeal subdivision 15 of section 353 of the executive law relating to the duties of the state director of the division of veterans' affairs; to repeal clause (h) of subparagraph 3 of paragraph b of subdivision 1 of section 4402 of the education law relating to reports on certain children of Vietnam veterans; to repeal clause (d) of subparagraph 1 of paragraph b of

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

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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, with power hereby vested in the commissioner to reject any or all bids if, in his opinion, the best interests of the district will be promoted

thereby and, upon such rejection of all bids, the commissioner shall order the board of education or trustee of the district to seek, obtain and consider new proposals. All proposals for such transportation, maintenance, mobile instructional units, or cafeteria and restaurant service shall be in such form as the commissioner may prescribe. Advertisement for bids shall be published in a newspaper or newspapers designated by the board of education or trustee of the district having general circulation within the district for such purpose OR IN THE STATE'S PROCUREMENT OPPORTUNITIES NEWSLETTER IN ACCORDANCE WITH ARTICLE FOUR-C OF THE ECONOMIC DEVELOPMENT LAW. Such advertisement shall contain a statement of the time when and place where all bids received pursuant to such advertisement will be publicly opened and read either by the school authorities or by a person or persons designated by them. All bids received shall be publicly opened and read at the time and place so specified. At least five days shall elapse between the first publication of such advertisement and the date so specified for the opening and reading of bids. The requirement for competitive bidding shall not apply to an award of a contract for the transportation of pupils or a contract for mobile instructional units OR THE PROVISION, MAINTENANCE AND OPERATION OF CAFETERIA OR RESTAURANT SERVICE, if such award is based on an evaluation of proposals in response to a request for proposals pursuant to paragraph e of this subdivision. The requirement for competitive bidding shall not apply to annual, biennial, or triennial extensions of a contract nor shall the requirement for competitive bidding apply to quadrennial or quinquennial year extensions of a contract involving transportation of pupils, maintenance of school buses or mobile instructional units secured either through competitive bidding or through evaluation of proposals in response to a request for proposals pursuant to paragraph e of this subdivision, when such extensions (1) are made by the board of education or the trustee of a district, under rules and regulations prescribed by the commissioner, and, (2) do not extend the original contract period beyond five years from the date cafeteria and restaurant service commenced thereunder and in the case of contracts for the transportation of pupils, for the maintenance of school buses or for mobile instructional units, that such contracts may be extended, except that power is hereby vested in the commissioner, in addition to his existing statutory authority to approve or disapprove transportation or maintenance contracts, (i) to reject any extension of a contract beyond the initial term thereof if he finds that amount to be paid by the district to the contractor in any year of such proposed extension fails to reflect any decrease in the regional consumer price index for the N.Y., N.Y.-Northeastern, N.J. area, based upon the index for all urban consumers (CPI-U) during the preceding twelve month period; and (ii) to reject any extension of a contract after ten years from the date transportation or maintenance service commenced thereunder, or mobile instructional units were first provided, if in his opinion, the best interests of the district will be promoted thereby. Upon such rejection of any proposed extension, the commissioner may order the board of education or trustee of the district to seek, obtain and consider bids pursuant to the provisions of this section. The board of education or the trustee of a school district electing to extend a contract as provided herein, may, in its discretion, increase the amount to be paid in each year of the contract extension by an amount not to exceed the regional consumer price index increase for the N.Y., N.Y.-Northeastern, N.J. area, based upon the index for all urban consumers (CPI-U), during the preceding twelve month period, provided it has been satisfactorily

established by the contractor that there has been at least an equivalent increase in the amount of his cost of operation, during the period of the contract.

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

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

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

G. NOTWITHSTANDING THE PROVISIONS OF THIS SUBDIVISION, SECTION ONE HUNDRED THREE OF THE GENERAL MUNICIPAL LAW, OR ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE BOARD OF EDUCATION SHALL BE AUTHORIZED TO ENTER INTO A PIGGYBACK CONTRACT WITH ANOTHER SCHOOL DISTRICT THAT TRANSPORTS STUDENTS PURSUANT TO A CONTRACT WITH A PRIVATE TRANSPORTATION CONTRACTOR, PROVIDED THAT THE BOARD FINDS THAT THE CONTRACT COST IS APPROPRIATE AND ENTRY INTO A PIGGYBACK CONTRACT WILL RESULT IN A COST SAVINGS TO THE SCHOOL DISTRICT. FOR PURPOSES OF THIS PARAGRAPH, A "PIGGYBACK CONTRACT" MEANS A CONTRACT FOR THE TRANSPORTATION OF STUDENTS THAT: (1) PROVIDES TRANSPORTATION TO A LOCATION OUTSIDE THE STUDENTS' SCHOOL DISTRICT OF RESIDENCE TO WHICH ANOTHER SCHOOL DISTRICT IS ALREADY PROVIDING TRANSPORTATION TO ITS OWN STUDENTS THROUGH AN EXISTING CONTRACT WITH A PRIVATE TRANSPORTATION CONTRACTOR, OTHER THAN A COOPERATIVELY BID CONTRACT; (2) IS ENTERED INTO BY THE PRIVATE TRANSPORTATION CONTRACTOR AND EACH SCHOOL DISTRICT INVOLVED; AND (3) PROVIDES FOR TRANSPORTATION IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF SUCH EXISTING TRANSPORTATION CONTRACT.

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

1. In addition to meeting other criteria and requirements of law governing approval, development, financing and state aid for the construction of new or expanded public infrastructure or the reconstruction thereof, no state infrastructure agency shall approve, undertake, support or finance a public infrastructure project, including providing grants, awards, loans or assistance programs, unless, to the extent practicable, it is consistent with the relevant criteria speci-

fied in subdivision two of this section. NOTWITHSTANDING THE PROVISIONS OF THIS SUBDIVISION OR ANY OTHER PROVISION OF THIS ARTICLE TO THE CONTRARY, PROJECTS FOR THE RECONSTRUCTION, RENOVATION, REPAIR OR IMPROVEMENT OF EXISTING PUBLIC SCHOOL FACILITIES OR EXISTING LIBRARY FACILITIES, AND PROJECTS FOR THE CONSTRUCTION OF NEW OR EXPANDED PUBLIC SCHOOL OR LIBRARY FACILITIES IN CITIES HAVING A POPULATION OF ONE HUNDRED TWENTY-FIVE THOUSAND INHABITANTS OR MORE, SHALL NOT BE DEEMED PUBLIC INFRASTRUCTURE PROJECTS SUBJECT TO THE REQUIREMENTS OF THIS ARTICLE.

S 6. Subparagraph 1 of paragraph (b) and paragraphs (c) and (d) of subdivision 20 of section 375 of the vehicle and traffic law, subparagraph 1 of paragraph (b) as amended by chapter 242 of the laws of 1992, paragraph (c) as amended by chapter 96 of the laws of 1973 and paragraph (d) as amended by chapter 567 of the laws of 1985, are amended to read as follows:

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

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

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

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

S 8. The commissioner of education, in consultation with the office of the state comptroller, shall conduct a study of the feasibility and 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 educa-

tion shall submit a report to the board of regents, the governor and the legislature by no later than January 15, 2016, 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 instruction provided during the regular school year for pupils enrolled in a nonpublic school located in a school district, INCLUDING SPECIAL EDUCA-

TION 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 attending public or nonpublic schools located within the school district, EXCEPT THAT THERE SHALL BE NO ENTITLEMENT UNDER THIS SECTION

TO THE PROVISION OF A SPECIAL CLASS OR INTEGRATED CO-TEACHING SERVICES, AS SUCH TERMS ARE DEFINED IN THE REGULATIONS OF THE COMMISSIONER, BY THE SCHOOL DISTRICT OF LOCATION FOR ALL OR PART OF THE SCHOOL DAY. Review of the recommendation of the committee on special education may be obtained by the parent or person in parental relation of the pupil pursuant to the provisions of section forty-four hundred four of this chapter; PROVIDED THAT A DUE PROCESS COMPLAINT, OTHER THAN A DUE PROCESS COMPLAINT RELATING TO CHILD FIND REQUIREMENTS BROUGHT PURSUANT TO PARAGRAPH C OF THIS SUBDIVISION, SUBMITTED ON OR AFTER SEPTEMBER FIRST, TWO THOUSAND TWELVE SHALL BE SUBMITTED TO MEDIATION PURSUANT TO SECTION FORTY-FOUR HUNDRED FOUR-A OF THIS CHAPTER AND AT LEAST ONE MEDIATION SESSION SHALL BE HELD PRIOR TO MAKING A REQUEST FOR AN IMPARTIAL HEARING IN ACCORDANCE WITH A TIMELINE PRESCRIBED BY THE COMMISSIONER.

e. A nonpublic school student whose disability is severe enough to exhibit the need for a structured learning environment of twelve months duration to maintain developmental levels shall be eligible to receive special education programs and services in July and August in accordance with the individualized education service program developed by the committee on special education of the school district of location and the provisions of section forty-four hundred eight of this chapter. Provided, however, that during a July/August special education program, a nonpublic school student shall not be entitled pursuant to this section to placement in a special class or integrated co-teaching services, as such terms are defined in the regulations of the commissioner. Notwithstanding any other provision of law to the contrary, the school district of location shall be eligible for state aid for such services exclusively pursuant to section forty-four hundred eight of this chapter.

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

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

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

2. It shall be the duty of the commissioner:

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

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

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

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

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

[f.] E. To make an annual report to the legislature on all of the matters enumerated in this subdivision and particularly as to the condition 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 IN a state-supported school in accordance with article eighty-five of this chapter.

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

(2) Such committees [or subcommittees] shall review at least annually, the status of each student with a disability and each student thought to be disabled who is identified pursuant to paragraph a of this subdivision. Such review shall consider the educational progress and achievement of the student with a disability and the student's ability to participate in instructional programs in regular education.

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

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

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

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

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

The committee [or when applicable the subcommittee] shall:

(3-a) The members of the committee [or subcommittee] may compile a list of appropriate and/or helpful services that may be available outside of the school setting to provide the parents or person in parental relation of a child with a disability with such information. Such list shall clearly state that these services are in addition to services supplied by the school district and will not be paid for by the

school district. Any member of a committee [or subcommittee] or his or her respective school district who, acting reasonably and in good faith, provides such information shall not be liable for such action.

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

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

8. To develop and distribute a handbook for parents of [handicapped] children WITH DISABILITIES and the members of committees [and subcommittees] on special education, which handbook shall explain, in layman terms, the financial and educational obligations of the state, the county or city, the home school district, the committee on special education, and the parent or legal guardian of a [handicapped] child WITH DISABILITY, the special services or programs available pursuant to this article, and the legal procedures available to an aggrieved parent or legal guardian of a [handicapped] child WITH A DISABILITY.

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

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

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

S 28. The opening paragraph and clauses (a), (b) and (c) of subparagraph 1 of paragraph b of subdivision 1 of section 4402 of the education law, the opening paragraph and clauses (a) and (c) as amended by chapter 311 of the laws of 1999, subclause (viii) of clause (a) as amended by chapter 194 of the laws of 2004, clause (b) as amended by section 1 of chapter 276 of the laws of 2012 and the closing paragraph of clause (b) as amended by chapter 378 of the laws of 2007, are amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

(5) The committee on special education or, in the case of a state operated school, the multidisciplinary team shall [provide written notice that a child who is placed in those residential programs specified in paragraphs d, g, h and l of subdivision two of section forty-four hundred one of this article is not entitled to receive tuition free educational services after the age of twenty-one, the receipt of a high school diploma or the time described in subdivision five of this section. Such written notice shall be provided to the child and to the parents or legal guardian of such child when such child attains the age of eighteen or, if such child is over the age of eighteen when placed in such a residential program, at the time of placement. Upon the first annual review after the age of fifteen of a child who is receiving non-residential special services or programs as specified in paragraph a, b, c, d, e, f, i, j, l or m of subdivision two of section forty-four hundred one of this article, or is receiving special services or programs in a day program at the human resources school; is receiving such special services or programs one hundred per centum of the school day; is receiving individualized attention or intervention because of intensive management needs or a severe handicap; and, as determined by the committee on special education or multidisciplinary team pursuant to

regulations promulgated by the commissioner, may need adult services from the office of mental health, office of mental retardation and developmental disabilities, the state department of social services, a social services district, or the state education department, the committee or multidisciplinary team shall provide to such child's parent or guardian, and if such child is eighteen years of age or older, to the child, written notice that such child is not entitled to receive tuition free educational services after the receipt of a high school diploma, the age of twenty-one or the time described in subdivision five of this section.] NOT LATER THAN THE ANNUAL REVIEW PRIOR TO THE EIGHTEENTH BIRTHDAY OF A STUDENT WITH A DISABILITY WHO IS PLACED IN A RESIDENTIAL PROGRAM BY THE COMMITTEE OR MULTIDISCIPLINARY TEAM, OR A STUDENT WITH A DISABILITY WHO IS PLACED IN A DAY PROGRAM BUT THE COMMITTEE OR MULTIDISCIPLINARY TEAM HAS DETERMINED THAT THE STUDENT IS LIKELY TO REQUIRE ADULT RESIDENTIAL SERVICES, WITH THE CONSENT OF THE PARENTS, NOTIFY AND INVITE A REPRESENTATIVE OF THE OFFICE OF MENTAL HEALTH, OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES, OR THE STATE EDUCATION DEPARTMENT, AS APPROPRIATE, TO PARTICIPATE IN THE COMMITTEE ON SPECIAL EDUCATION MEETING FOR THE DEVELOPMENT OF A RECOMMENDATION FOR ADULT SERVICES PURSUANT TO SECTION 7.37 OR 13.37 OF THE MENTAL HYGIENE LAW, SECTION THREE HUNDRED NINETY-EIGHT-C OF THE SOCIAL SERVICES LAW OR SECTION FORTY-FOUR HUNDRED THREE OF THIS ARTICLE. THE COMMITTEE OR MULTIDISCIPLINARY TEAM SHALL GIVE THE PARENT OR GUARDIAN OF THE CHILD, THE OPPORTUNITY TO CONSENT IN WRITING TO THE RELEASE OF RELEVANT INFORMATION TO SUCH OTHER PUBLIC AGENCY OR AGENCIES, UPON REQUEST OF SUCH AGENCY OR AGENCIES, FOR PURPOSES OF DETERMINING APPROPRIATENESS OF AN ADULT PROGRAM FOR SUCH STUDENT.

(a) [Written notice given pursuant to this subparagraph shall describe in detail the opportunity to consent to have the child's name and other relevant information forwarded in a report to the commissioner of mental health, commissioner of mental retardation and developmental disabilities, commissioner of social services, or commissioner of education, or their designees, for the purpose of determining whether such child will likely need adult services and, if so, recommending possible adult services.] For the purposes of this subparagraph "relevant information" shall be defined as that information in the possession of and used by the committee or the multidisciplinary team to ascertain the physical, mental, emotional and cultural-educational factors which contribute to the [child's handicapping condition] STUDENT'S DISABILITY, including but not limited to: (i) results of physical and psychological examinations performed by private and school district physicians and psychologists; (ii) relevant information presented by the parent, guardian and teacher; (iii) school data which bear on the [child's] STUDENT'S progress including the [child's] STUDENT'S most recent individualized education program; (iv) results of the most recent examinations and evaluations performed pursuant to clause (d) of subparagraph three of this paragraph; and (v) results of other suitable evaluations and examinations possessed by the committee or multidisciplinary team. Nothing in this subparagraph shall be construed to require any committee or multidisciplinary team to perform any examination or evaluation not otherwise required by law.

(b) Upon consent obtained pursuant to [clause (c) of] this subparagraph, the committee or multidisciplinary team shall forward the [child's] STUDENT'S name and other relevant information in a report to the [commissioner of mental health, commissioner of mental retardation and developmental disabilities, commissioner of social services, or

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

(c) [Upon receipt of the notice by the child pursuant to this subparagraph, the child, if eighteen years of age or older, shall be given the opportunity to consent or withhold consent to the release of the relevant information. Such opportunity shall be given within twenty days of the receipt of the notice. An appropriate member of the staff of the educational facility shall be available to assist the child, if necessary, to understand the contents of the notice and the need for his or her consent for the release of the relevant information. A form, prescribed by the commissioner, shall be presented to the child for response, which shall clearly set forth the options of giving consent or withholding consent. In the event that the child exercises neither option, and the designated member of the staff of the educational facility has reason to believe that the child may not be able to understand the purpose of the form, or in the event that the child is less than eighteen years of age, the committee on special education or the multidisciplinary team shall give the parent or guardian of the child the opportunity to consent in writing to the release of the relevant information. Nothing in this clause shall be construed to be a determination of the child's mental capacity.

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

[(e) The committee and multidisciplinary team shall prepare and submit an annual report to the state education department on or before October first of each year. Such annual report shall contain the number of cases submitted to each commissioner pursuant to clause (b) or (d) of this subparagraph, the type and severity of the handicapping condition involved with each such case, the number of notices received which deny responsibility for determining and recommending adult services, and other information necessary for the state education department and the council on children and families to monitor the need for adult services. Such annual report shall not contain individually identifying information. 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 violation that occurred not more than [two years] ONE YEAR before the date the parent or public agency knew or should have known about the

alleged action that forms the basis for the complaint, OR IN THE CASE OF A COMPLAINT SEEKING TUITION REIMBURSEMENT FOR THE UNILATERAL PARENTAL PLACEMENT OF A STUDENT IN A PRIVATE SCHOOL, SUCH TUITION CLAIM IS PRESENTED NOT MORE THAN ONE HUNDRED EIGHTY DAYS FROM THE PLACEMENT BY THE PARENT OR PERSON IN PARENTAL RELATION IN THE PRIVATE SCHOOL, PROVIDED THAT THE STUDENT SHALL BE DEEMED PLACED FOR SUCH PURPOSE ON THE FIRST DAY THE STUDENT IS ENROLLED IN AND IS LIABLE FOR TUITION IN THE PRIVATE SCHOOL, the board or agency shall appoint an impartial hearing officer to review the due process complaint notice when challenged and, if the matter is not resolved in a resolution session that has been convened as required by federal law, to preside over an impartial due process hearing and make a determination within such period of time as the commissioner by regulation shall determine, provided that the board of education or trustees shall offer the parent or person in parental relation the option of mediation pursuant to section forty-four hundred four-a of this article as an alternative to an impartial hearing. Where the parent or person in parental relation or a school district or public agency presents a complaint, the school district or public agency responsible for appointing the impartial hearing officer shall provide the parent or person in parental relation with a procedural safeguards notice as required pursuant to subsection (d) of section fourteen hundred fifteen of title twenty of the United States code and the implementing federal regulations. Notwithstanding any provision of this subdivision to the contrary, the time limitation on presenting a complaint shall not apply to a parent or person in parental relation to the student if the parent or person in parental relation was prevented from requesting the impartial hearing due to specific misrepresentations by the school district or other public agency that it had resolved the problem forming the basis of the complaint or due to the school district's or other public agency's withholding of information from the parent or person in parental relation that was required under federal law to be provided. Nothing in this subdivision shall be construed to authorize the board of education or trustees to bring an impartial hearing to override the refusal of a parent or person in parental relation to consent where a local educational agency is prohibited by federal law from initiating such a hearing.

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

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

S 36. Paragraphs (a) and (c) of subdivision 9-a of section 4410 of the education law, paragraph (a) as amended by chapter 581 of the laws of

2011 and paragraph (c) as added by chapter 82 of the laws of 1995, are amended to read as follows:

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

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

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

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

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

S 38. This act shall take effect July 1, 2015, provided that if this act shall become a law after such date, it shall take effect immediately and shall be deemed to have been in full force and effect on and after July 1, 2015 and provided further, nothing in section six of this act shall be construed to require the retrofitting of school buses purchased prior to the effective date of this act, and provided further that:

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

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

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

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

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

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

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