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I N   S E N A T E

January 7, 2016

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Introduced by Sen. AVELLA -- 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 the education of a preschool child with a handicapping condition

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

- 1     Section 1. Paragraphs d, e and g of subdivision 1 of section 4410-a  
2 of the education law, as amended by chapter 705 of the laws of 1992, are  
3 amended and a new paragraph i is added to read as follows:  
4     d. "Municipality of current location" FOR A CHILD IN FOSTER CARE OR A  
5 CHILD IN RESIDENTIAL CARE shall mean a municipality in which a child  
6 lives which is different from the municipality in which a child or such  
7 child's family lived at the time a social services district assumed  
8 responsibility for the placement of such child or family, or at the time  
9 such child was admitted for care and/or treatment in a facility licensed  
10 or operated by another state agency. PROVIDED, HOWEVER, THAT FOR A  
11 CHILD WHO IS HOMELESS "MUNICIPALITY OF CURRENT LOCATION" SHALL MEAN THE  
12 MUNICIPALITY IN WHICH THE HOTEL, MOTEL, SHELTER, OR OTHER TEMPORARY  
13 HOUSING ARRANGEMENT OF A HOMELESS CHILD IS LOCATED, WHICH IS DIFFERENT  
14 FROM THE MUNICIPALITY OF RESIDENCE.  
15     e. "Municipality of residence" FOR A CHILD IN FOSTER CARE OR A CHILD  
16 IN RESIDENTIAL CARE shall mean the municipality in which a child or such  
17 child's family lived at the time the local social services district  
18 assumed responsibility for the placement of such child or family, or at  
19 the time such child was admitted for care and/or treatment in a facility  
20 licensed or operated by another state agency. PROVIDED, HOWEVER, THAT  
21 FOR A CHILD WHO IS HOMELESS "MUNICIPALITY OF RESIDENCE" SHALL MEAN THE  
22 MUNICIPALITY IN WHICH A CHILD OR SUCH CHILD'S FAMILY LIVED WHEN CIRCUM-  
23 STANCES AROSE WHICH CAUSED SUCH CHILD TO BECOME HOMELESS.  
24     g. "School district of current location" FOR A CHILD IN FOSTER CARE OR  
25 A CHILD IN RESIDENTIAL CARE shall mean a school district in which a  
26 child lives which is different from the school district in which a child  
27 or such child's family lived at the time a social services district  
28 assumed responsibility for the placement of such child or family, or at

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

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1 the time such child was admitted for care and/or treatment in a facility  
2 licensed or operated by another state agency. PROVIDED, HOWEVER, THAT  
3 FOR A CHILD WHO IS HOMELESS "SCHOOL DISTRICT OF CURRENT LOCATION" SHALL  
4 MEAN THE SCHOOL DISTRICT IN WHICH THE HOTEL, MOTEL, SHELTER, OR OTHER  
5 TEMPORARY HOUSING ARRANGEMENT OF A HOMELESS CHILD IS LOCATED, WHICH IS  
6 DIFFERENT FROM THE SCHOOL DISTRICT OF RESIDENCE.

7 I. "SCHOOL DISTRICT OF RESIDENCE" FOR A CHILD IN FOSTER CARE OR A  
8 CHILD IN RESIDENTIAL CARE SHALL MEAN THE SCHOOL DISTRICT IN WHICH A  
9 CHILD OR SUCH CHILD'S FAMILY LIVED AT THE TIME THE LOCAL SOCIAL SERVICES  
10 DISTRICT ASSUMED RESPONSIBILITY FOR THE PLACEMENT OF SUCH CHILD OR FAMI-  
11 LY, OR AT THE TIME SUCH CHILD WAS ADMITTED FOR CARE AND/OR TREATMENT IN  
12 A FACILITY LICENSED OR OPERATED BY ANOTHER STATE AGENCY, WHICH IS  
13 DIFFERENT FROM THE SCHOOL DISTRICT OF CURRENT LOCATION. PROVIDED, HOWEV-  
14 ER, THAT FOR A CHILD WHO IS HOMELESS "SCHOOL DISTRICT OF RESIDENCE"  
15 SHALL MEAN THE SCHOOL DISTRICT IN WHICH A CHILD OR SUCH CHILD'S FAMILY  
16 LIVED WHEN CIRCUMSTANCES AROSE WHICH CAUSED SUCH CHILD TO BECOME HOME-  
17 LESS, WHICH IS DIFFERENT FROM THE SCHOOL DISTRICT OF CURRENT LOCATION.

18 S 2. Subdivisions 2 and 3 of section 4410-a of the education law, as  
19 amended by chapter 280 of the laws of 1994, are amended to read as  
20 follows:

21 2. School district evaluation and placement responsibility. A. CHILD  
22 IN RESIDENTIAL CARE. The school district of current location of a  
23 [foster care or homeless child or] child in residential care shall be  
24 responsible for the evaluation and placement procedures prescribed for a  
25 preschool child suspected of having a handicapping condition OR FOR A  
26 PRESCHOOL CHILD WITH A DISABILITY pursuant to section forty-four hundred  
27 ten of this chapter.

28 B. CHILD IN FOSTER CARE. FOR A CHILD IN FOSTER CARE, THE SCHOOL  
29 DISTRICT OF RESIDENCE SHALL BE RESPONSIBLE FOR THE EVALUATION AND PLACE-  
30 MENT PROCEDURES PRESCRIBED FOR A PRESCHOOL CHILD SUSPECTED OF HAVING A  
31 HANDICAPPING CONDITION OR FOR A PRESCHOOL CHILD WITH A DISABILITY PURSU-  
32 ANT TO SECTION FORTY-FOUR HUNDRED TEN OF THIS CHAPTER, UNLESS THE CHILD  
33 WELFARE AGENCY DETERMINES THAT IT IS IN THE CHILD'S BEST INTERESTS TO  
34 TRANSFER SUCH RESPONSIBILITIES TO THE SCHOOL DISTRICT OF CURRENT  
35 LOCATION.

36 C. CHILD WHO IS HOMELESS. FOR A CHILD WHO IS HOMELESS, THE PARENT OR  
37 THE PERSON IN PARENTAL RELATION TO THE HOMELESS CHILD SHALL DESIGNATE  
38 EITHER THE SCHOOL DISTRICT OF RESIDENCE OR THE SCHOOL DISTRICT OF  
39 CURRENT LOCATION AND SUCH DESIGNATED DISTRICT SHALL BE RESPONSIBLE FOR  
40 THE EVALUATION AND PLACEMENT PROCEDURES PRESCRIBED FOR A PRESCHOOL CHILD  
41 SUSPECTED OF HAVING A HANDICAPPING CONDITION OR FOR A PRESCHOOL CHILD  
42 WITH A DISABILITY PURSUANT TO SECTION FORTY-FOUR HUNDRED TEN OF THIS  
43 CHAPTER.

44 D. In issuing its written notice of determination of services, the  
45 board of education of [such] THE school district WITH EVALUATION AND  
46 PLACEMENT RESPONSIBILITY AS DETERMINED IN PARAGRAPHS A, B, AND C OF THIS  
47 SUBDIVISION shall identify the municipality of residence AND THE MUNICI-  
48 PALITY OF CURRENT LOCATION of a preschool child with a handicapping  
49 condition who is a foster care or homeless child or child in residential  
50 care. Such notice of determination shall be transmitted to both the  
51 municipality of residence and the municipality of current location.

52 3. Contract and payment responsibility. The municipality [of current  
53 location] IN WHICH THE SCHOOL DISTRICT THAT HAS EVALUATION AND PLACEMENT  
54 RESPONSIBILITY IS LOCATED shall be the municipality of record for a  
55 preschool child with a handicapping condition who is a foster care or  
56 homeless child or child in residential care for the purposes of section

1 forty-four hundred ten of this chapter provided, however, that, notwith-  
2 standing the provision of paragraph b of subdivision eleven of such  
3 section, the state shall reimburse one hundred percent of the approved  
4 costs paid by such municipality which shall be offset by the local  
5 contribution due pursuant to subdivision four of this section.

6 S 3. This act shall take effect on the ninetieth day after it shall  
7 have become a law.