STATE OF NEW YORK

9911

IN ASSEMBLY

February 22, 2018

Introduced by M. of A. NOLAN -- read once and referred to the Committee on Education

AN ACT to amend the education law, the social services law, and the executive law, in relation to funding for special act school districts and children with special needs

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The education law is amended by adding a new section 4007 to read as follows:

§ 4007. Annual performance evaluations. Special act school districts, as authorized in this article, shall not be required to participate in annual performance evaluations, as authorized pursuant to section three thousand twelve-d of this chapter.

§ 2. Section 4004 of the education law is amended by adding a new subdivision 5 to read as follows:

5. The board of education of a special act school district shall be authorized to establish a fiscal stabilization reserve fund. There may be paid into such fund an amount as may be provided pursuant to the requirements of paragraph k of subdivision four of section forty-four hundred five of this title.

§ 3. Subdivision 4 of section 4405 of the education law is amended by adding a new paragraph k to read as follows:

k. (i) The tuition methodology established pursuant to this subdivision for the two thousand seventeen--two thousand eighteen school year and annually thereafter shall authorize approved private residential or non-residential schools for the education of students with disabilities that are located within the state, and special act school districts, to retain funds in excess of their allowable and reimbursable costs incurred for services and programs provided to school-age students. The amount of funds that may be annually retained shall not exceed one percent of the school's or school district's total allowable and reimbursable costs for services and programs provided to school-age students for the school year from which the funds are to be retained; provided that the total accumulated balance that may be retained shall not exceed

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

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four percent of such total costs for such school year. Funds may be expended only pursuant to an authorization of the governing board of the school or school district, for a purpose expressly authorized as part of the approved tuition methodology for the year in which the funds are to be expended. The director of the budget, in consultation with the commissioner, shall establish the authorized uses for the expenditures of such funds as part of the approved tuition methodology. Any school or school district that retains funds pursuant to this paragraph shall be required to annually report a statement of the total balance of any such retained funds, the amount, if any, retained in the prior school year, an amount, if any, dispersed in the prior school year, and any additional information requested by the department as part of the financial reports that are required to be annually submitted to the department.

(ii) Notwithstanding any law to the contrary, a special act school district, as authorized under article eighty-one of this title, or an educational or residential facility, as authorized by chapter eight hundred fifty-three of the laws of nineteen hundred seventy-six, an educational institution as authorized under article eight-five of this title, or a program authorized by this article, for aid payable for the two thousand eighteen--two thousand nineteen school year and thereafter, shall receive at minimum, the same percentage increase as that of general support for public schools as enacted in the state budget when compared to the enacted state budget in the base year.

§ 4. Section 4405 of the education law is amended by adding a new subdivision 7 to read as follows:

7. a. Within funds appropriated for such purpose there shall be additional aid payable for the two thousand eighteen--two thousand nineteen school year and thereafter to schools providing special services or programs as defined in subdivision one and paragraphs e, g, l, of subdivision two of section forty-four hundred one of this article and approved preschool programs that provide full and half-day educational programs in accordance with section forty-four hundred ten of this article to help prevent excessive staff turnover through a targeted adjustment of compensation for related services providers as defined in paragraph k of subdivision two of section forty-four hundred one of this article, providing direct services to students at such schools. The commissioner shall develop an allocation plan, subject to the approval of the director of the budget, that distributes funds appropriated herein among eligible schools.

b. Within funds appropriated for such purpose there shall be additional aid payable for the two thousand eighteen--two thousand nineteen school year and thereafter to schools for the blind and deaf to help prevent excessive instructional staff and direct services staff turnover through a targeted adjustment of compensation for teachers providing direct instructional services and related services providers as defined in paragraph k of subdivision two of section forty-four hundred one of this article, providing direct services to students at such schools. The commissioner shall develop an allocation plan, subject to the approval of the director of the budget, that distributes funds appropriated herein among eligible schools.

§ 5. The education law is amended by adding a new section 4008 to read as follows:

§ 4008. Expunction of a record. Any person employed, including licensed or credentialed person employed by a special act school district, as authorized under this article, an educational or residential facility, as authorized by chapter eight hundred fifty-three of the

laws of nineteen hundred seventy-six, an educational institution as authorized under article eighty-five of this title, or a program authorized by article eighty-nine of this title, shall upon notification of an unsubstantiated allegation of abuse or neglect as defined in section four hundred ninety-four of the social services law, have the record of unsubstantiated allegation of abuse or neglect expunged from their license, credential, and/or personnel record.

§ 6. Subdivision 1 of section 494 of the social services law, as added by section 1 of part B of chapter 501 of the laws of 2012, is amended to read as follows:

1. (a) The subject of an investigation of an allegation of abuse or neglect shall be notified of their status as the subject of an investigation of an allegation of abuse or neglect within five calendar days of the receipt of an allegation against such subject. The justice center or cooperating oversight agency shall have an additional sixty calendar days to complete its investigation, conduct any hearings, and to inform the subject of the allegation of abuse or neglect of the outcome of the investigation. The subject of an investigation of an allegation of abuse or neglect may be suspended pending a hearing on the charges and the final determination thereof. The suspension shall be with pay, except the employee may be suspended without pay if the employee has entered a guilty plea to or has been convicted of a felony crime concerning the criminal sale or possession of a controlled substance, a precursor of a controlled substance, or drug paraphernalia as defined in article two hundred twenty or two hundred twenty-one of the penal law; or a felony crime involving the physical abuse of a minor or student. The impartial hearing office, as defined by section five hundred sixty-four of the executive law, shall render a decision within fifteen days of the completion of the investigatory period if substantiated charges were made. At any time subsequent to the completion of an investigation of an allegation of abuse or neglect, but in no event later than thirty days after the subject of the report is notified that the report is substantiated, the subject may request that the vulnerable persons' central register amend the findings of the report. If the register does not amend the findings of the report in accordance with such request, the subject shall have the right to be heard before an administrative law judge, to determine whether the findings of the report should be amended on the grounds that they are inaccurate or inconsistent with the provisions in this article. The office shall establish [~~an appeals process~~] a process of notification of appeals, within five business days of notification of a decision, by which the subject of the report is notified of the right to appeal and the procedure by which he or she may challenge the determination that a report is substantiated, with a de novo standard of review.

(b) If the administrative law judge determines that the justice center failed to prove by a preponderance of the evidence the finding that the subject committed the act or acts of abuse or neglect, the justice center shall amend the record to reflect that such a finding was made, and shall [~~promptly~~] within five calendar days, notify the subject of the report and any other persons or entities previously notified of the existence of the report of the amended finding. Such report shall be sealed in accordance with the standards set forth in section four hundred ninety-six of this article.

§ 7. The executive law is amended by adding a new section 563 to read as follows:

§ 563. Joint training. The justice center shall biannually conduct regional joint trainings on oversight and standards with educational institutions and facilities that the justice center and cooperating oversight agencies exercise jurisdiction over to ensure equal standards and enforcement among the different regions of the state. The joint trainings participants shall include, but not be limited to: justice center headquarter staff, justice center regional office staff, justice center and cooperating oversight agencies investigative staff, the bargaining unit, if any, of any employee of an education institution or facility under the oversight of the justice center or any cooperating oversight agencies, and employees from each job classification at an educational institution or facility under the oversight of the justice center or any cooperating oversight agencies.

§ 8. The executive law is amended by adding a new section 564 to read as follows:

§ 564. Hearing officers. 1. All hearings pursuant to this section shall be conducted before and by a single hearing officer selected as provided for in this section. A hearing officer shall not be eligible to serve in such position if he or she is a resident of the school district, other than the city of New York, under the jurisdiction of the employing board or agency, an employee, agent or representative of the employing board or of any labor organization representing employees of such employing board or agency, has served as such agent or representative within two years of the date of the scheduled hearing, or if he or she is then serving as a mediator or fact finder in the same school district. The process for selection of an impartial hearing officer shall be as similar as possible to the regulatory framework for the appointment of an impartial hearing officer for due process complaints.

2. Notwithstanding any law to the contrary, for the purposes of this act, for any allegations or charges, other than criminal allegations or charges, any persons, including licensed or credentialed persons employed by a special act school district, as authorized under article eighty-one of the education law, or an educational or residential facility, as authorized by chapter eight hundred fifty-three of the laws of nineteen hundred seventy-six, an educational institution as authorized under article eighty-five of the education law, or a program authorized by article eighty-nine of the education law, shall be entitled to representation by a representative of the bargaining unit or representation secured by the person employed, to be present in any investigation by the justice center or any cooperating oversight agencies.

3. Notwithstanding any law to the contrary, for the purposes of this act, for any criminal allegations or charges, any persons, including licensed or credentialed persons employed by a special act school district, as authorized under article eighty-one of the education law, or an educational or residential facility, as authorized by chapter eight hundred fifty-three of the laws of nineteen hundred seventy-six, an educational institution as authorized under article eighty-five of the education law, or a program authorized by article eighty-nine of the education law, shall be entitled to representation by a representative of the bargaining unit or representation secured by the person employed, to be present in any investigation by the justice center or any cooperating oversight agencies.

§ 9. This act shall take effect immediately.