STATE OF NEW YORK

2698

2017-2018 Regular Sessions

IN ASSEMBLY

January 23, 2017

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

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

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

Section 1. Paragraph d of subdivision 7 of section 4410 of the education law, as amended by section 57 of part H of chapter 83 of the laws of 2002, is amended to read as follows:

d. **(i)** A state review officer of the education department shall review the decision of the impartial hearing officer in the manner prescribed in subdivision two of section forty-four hundred four of this article and render a decision no later than thirty days after the decision of such hearing officer.

(ii) Appeals taken to the office of state review shall be decided in the order in which they are received. In the event that the state review officer does not, within thirty days, render a final decision and forward such decision to the parties, then the decision of the impartial hearing officer shall be substituted for the decision that should have been timely rendered by the state review officer and deemed to be final for administrative purposes, without prejudice to any further appeal that may be taken by any aggrieved party to the federal court pursuant to 34 C.F.R. § 300.516.

§ 2. Subdivision 2 of section 4404 of the education law, as amended by chapter 53 of the laws of 1990, is amended to read as follows:

2. Review by state review officer. **a.** A state review officer of the education department shall review and may modify, in such cases and to the extent that the review officer deems necessary, in order to properly effectuate the purposes of this article, any determination of the impar-

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

LBD00917-01-7

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

b. Appeals taken to the office of state review shall be decided in the order in which they are received. In the event that the state review officer does not, within thirty days, render a final decision and forward such decision to the parties, then the decision of the impartial hearing officer shall be substituted for the final decision that should have been timely rendered by the state review officer and deemed to be final for administrative purposes, without prejudice to any further appeal that may be taken by any aggrieved party to the federal court pursuant to 34 C.F.R. § 300.516.

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