

STATE OF NEW YORK

5237

2017-2018 Regular Sessions

IN SENATE

March 16, 2017

Introduced by Sen. MARCELLINO -- 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 reimbursement for
special education services and programs for preschool children with
handicapping conditions

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

1 Section 1. Subparagraph (i) of paragraph a of subdivision 10 of
2 section 4410 of the education law is amended by adding a new clause (D)
3 to read as follows:

4 (D) Notwithstanding any other provision of law, rule or regulation to
5 the contrary, commencing with the two thousand seventeen--two thousand
6 eighteen school year, for approved services or programs provided to
7 preschool children pursuant to this section reimbursement for such
8 services shall be made based on an alternative methodology for
9 reimbursement to be established by the commissioner. The alternative
10 methodology, subject to the approval of the director of the budget,
11 shall be proposed by the department no later than August thirty-first,
12 two thousand seventeen.

13 § 2. Subparagraph (iii) of paragraph a of subdivision 9 of section
14 4410 of the education law, as amended by section 57-a of part H of chap-
15 ter 83 of the laws of 2002, is amended to read as follows:

16 (iii) Commencing July first, nineteen hundred ninety-six and continu-
17 ing through June thirtieth, two thousand three, a moratorium on the
18 approval of any new or expanded programs in settings which include only
19 preschool children with disabilities is established. Exceptions shall be
20 made for cases in which school districts document a critical need for a
21 new or expanded program in a setting which includes only preschool chil-
22 dren with disabilities, to meet the projected demand for services for
23 preschool children in the least restrictive environment. Applications
24 for new or expanded programs may be made directly to the state education

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

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1 department. Nothing herein shall prohibit the commissioner from approv-
2 ing the modification of a full-day program into half-day sessions.

3 Commencing July 1, 1999 the department shall only approve any new or
4 expanded programs in settings which include only preschool children with
5 disabilities, if the applicant can document a critical need for a new or
6 expanded program in a setting which includes only preschool children
7 with disabilities to meet the projected demand for services for
8 preschool children in the least restrictive environment. If the depart-
9 ment determines that approval will not be granted, it must notify the
10 applicant, in writing, of its reasons for not granting such approval.
11 The department shall establish guidelines, within 90 days of the effec-
12 tive date of this section which shall state the criteria used to deter-
13 mine if the applicant has demonstrated such a critical need. The depart-
14 ment is authorized to consult with the local school district to verify
15 any data submitted.

16 On [~~December 1, 2003~~] January 1, 2018 the commissioner shall submit a
17 report to the board of regents, the majority leader of the senate, the
18 speaker of the assembly and governor evaluating the impact of such mora-
19 torium on the availability of preschool special education services. The
20 report shall include: (i) information regarding the number of applica-
21 tions for new programs and program expansions and the disposition of
22 those applications by the commissioner; (ii) an assessment of the
23 projected need for additional classes serving only disabled children and
24 those serving disabled children with their non-disabled peers and in
25 other less restrictive settings; (iii) an assessment of the projected
26 need for additional programs due to program closings in the region,
27 number of children receiving early intervention services and existing
28 waiting lists; (iv) an assessment of the distance that children must be
29 transported to receive preschool special education services; (v) an
30 evaluation of the programmatic performance and cost-effectiveness of
31 existing programs; (vi) recommendations regarding ways in which improved
32 quality and cost-effectiveness could be achieved through the selective
33 expansion of effective programs and/or the curtailment of less effective
34 programs; and (vii) an assessment of the availability and effectiveness
35 of approved programs providing services to preschool children with
36 autism.

37 § 3. This act shall take effect immediately.