

STATE OF NEW YORK

2793

2019-2020 Regular Sessions

IN ASSEMBLY

January 25, 2019

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

AN ACT to amend the education law, in relation to requiring video camera recording in special education classrooms where pupils are unable to communicate effectively

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

1 Section 1. The education law is amended by adding a new section 4407-a
2 to read as follows:

3 § 4407-a. Video camera recording of special education services and
4 programs. 1. Each school district and the governing body of each charter
5 school, as applicable, shall provide equipment, including, without limi-
6 tation, one or more video cameras with the capability of recording
7 sound, to each public school or charter school which has a classroom in
8 which a majority of the pupils who regularly are present in the class-
9 room:

10 (a) receive special education services or programs pursuant to the
11 provisions of this article;

12 (b) have a disability, including but not limited to autism or autism
13 spectrum disorder which render the pupils unable to communicate effec-
14 tively; and

15 (c) are assigned to the classroom to receive special education
16 services or programs pursuant to the provisions of this article, for at
17 least fifty percent of the instructional day.

18 2. A video camera installed pursuant to subdivision one of this
19 section must record: (a) the classroom only during a regular school day;
20 and (b) all areas of the classroom, except that the video camera must
21 not record the interior of a bathroom or any other area in which a pupil
22 may change or remove his or her clothing.

23 3. The principal of a public school or charter school shall provide
24 written notice that a video camera has been or will be installed pursu-

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

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1 ant to this section to each parent or legal guardian of a pupil who
2 receives such special education at the school and to any other person
3 likely to be recorded by the video camera, including, without limita-
4 tion, an employee of the school who will be in the classroom.

5 4. Before assigning any employee who provides services to pupils at a
6 public school or charter school to provide such services in a classroom
7 in which a video camera has been installed pursuant to subdivision one
8 of this section, the principal of the school shall ensure that the
9 employee has received appropriate training concerning the use of the
10 video camera, the rights and responsibilities of the employee regarding
11 the video camera and the other provisions of this section.

12 5. A public school or charter school shall not allow the regular moni-
13 toring of a recording made by a video camera pursuant to this section by
14 any person and shall retain any recording that is made for not more than
15 sixty days or until the disposition of a complaint, whichever is longer,
16 unless required to do so for a longer period by a court order, subpoena
17 or pursuant to any other provision of law.

18 6. The board of education of a school district and the governing body
19 of a charter school may solicit or accept gifts, grants or donations
20 from any person to support the installation of video cameras in public
21 schools or charter schools pursuant to this section.

22 7. A recording made pursuant to this section is confidential and is
23 not a public record for purposes of the freedom of information law.
24 Except as otherwise provided in subdivision eight of this section, a
25 recording may not be viewed, released or used by any person unless the
26 board of education of the school district or the governing body of the
27 charter school that made the recording obtains the written consent of
28 each person who appears in the recording, including, without limitation,
29 the parent or legal guardian of a pupil who appears in the recording.

30 8. A public school or charter school shall release a recording made
31 pursuant to this section to: (a) the parent or legal guardian of a
32 pupil or an employee of the school, as applicable, who appears in a
33 recording relating to a complaint filed with the department; (b) an
34 employee designated with the department to investigate a complaint
35 relating to the recording; (c) an agency which provides child welfare as
36 part of an investigation of a report concerning the abuse or neglect of
37 a child; (d) a peace officer as part of a criminal investigation; and
38 (e) a parent or legal guardian of a pupil who appears in the recording,
39 for use in a legal proceeding.

40 9. This section does not: (a) create a cause of action; or (b) waive
41 any immunity from liability or limitation on liability of a school
42 district or a charter school, or an officer or employee of a school
43 district or charter school that is otherwise provided by law.

44 10. The department may adopt such regulations as it deems necessary to
45 carry out the provisions of this section.

46 § 2. This act shall take effect immediately.