

STATE OF NEW YORK

7276

IN SENATE

January 15, 2020

Introduced by Sen. CARLUCCI -- 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 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-
25 ant to this section to each parent or legal guardian of a pupil who
26 receives such special education at the school and to any other person

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

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1 likely to be recorded by the video camera, including, without limita-
2 tion, an employee of the school who will be in the classroom.

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

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

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

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

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

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

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

44 § 2. This act shall take effect immediately.