

# STATE OF NEW YORK

9132

## IN SENATE

May 10, 2022

Introduced by Sen. MANNION -- 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 the tuition methodology for special education schools and programs

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

1 Section 1. Subparagraphs (i) and (ii) of paragraph k of subdivision 4  
2 of section 4405 of the education law, as amended by section 19-a of part  
3 A of chapter 56 of the laws of 2022, are amended to read as follows:

4 (i) The tuition methodology established pursuant to this subdivision  
5 for the two thousand twenty-one--two thousand twenty-two school year  
6 shall authorize approved private residential or non-residential schools  
7 for the education of students with disabilities that are located within  
8 the state, and special act school districts to retain funds prior to the  
9 application of reconciliation, including but not limited to, the appli-  
10 cation of non-direct care and total cost screens, in excess of their  
11 allowable and reimbursable costs, as defined by the reimbursable cost  
12 manual, incurred for services and programs provided to school-age  
13 students. The amount of funds that may be annually retained shall not  
14 exceed one percent of the school's or school district's [~~total-allowable~~  
15 ~~and reimbursable costs for services and programs~~] prospective per diem  
16 rate for services and programs provided to school-age students for the  
17 school year from which the funds are to be retained; provided that the  
18 total accumulated balance that may be retained shall not exceed four  
19 percent of such total costs for such school year; and provided further  
20 that such funds shall [~~not~~] be [~~recoverable on~~] retained prior to the  
21 application of reconciliation of tuition rates, and shall be separate  
22 from and in addition to any other authorization to retain surplus funds  
23 on reconciliation.

24 (ii) The tuition methodology established pursuant to this subdivision  
25 for the two thousand twenty-two--two thousand twenty-three school year  
26 and annually thereafter shall authorize approved providers to retain  
27 funds prior to the application of reconciliation, including, but not  
28 limited to, the application of non-direct care and total cost screens,

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

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1 in excess of their allowable and reimbursable costs, as defined by the  
2 reimbursable cost manual, incurred for services and programs provided to  
3 school-age and preschool students. The amount of funds that may be annu-  
4 ally retained shall not exceed the allowable surplus percentage, as  
5 defined in subparagraph (iii) of this paragraph, of the approved provid-  
6 er's [~~total allowable and reimbursable costs~~] prospective per diem rate  
7 for services and programs provided to school-age and preschool students  
8 for the school year from which the funds are to be retained[, ~~as defined~~  
9 ~~in subparagraph (iii) of this paragraph~~]; provided that such funds shall  
10 [~~not~~] be [~~recoverable on~~] retained prior to the application of reconcil-  
11 iation [~~of tuition rates~~]. For purposes of this subparagraph, "approved  
12 providers" shall mean private residential or non-residential schools for  
13 the education of students with disabilities that are located within the  
14 state, special act school districts, July and August programs for  
15 students with disabilities approved pursuant to section forty-four  
16 hundred eight of this article, and programs approved pursuant to section  
17 forty-four hundred ten of this article that are subject to tuition rate  
18 reconciliation.

19 § 2. This act shall take effect immediately.