

# STATE OF NEW YORK

7000

2023-2024 Regular Sessions

## IN SENATE

May 16, 2023

Introduced by Sen. MANNION -- (at request of the State Education Department) -- read twice and ordered printed, and when printed to be committed to the Committee on Disabilities

AN ACT to amend the education law, in relation to the responsibility for certain temporary-resident preschool children with disabilities

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

1 Section 1. Section 4410-a of the education law, as added by chapter 53  
2 of the laws of 1990 and as renumbered by chapter 705 of the laws of  
3 1992, paragraph b of subdivision 1 as amended by chapter 569 of the laws  
4 of 1994, paragraphs d, e and g of subdivision 1 as amended by chapter  
5 705 of the laws of 1992, paragraph f of subdivision 1 as amended by  
6 chapter 474 of the laws of 1996, paragraph h of subdivision 1 and subdivisions  
7 2, 3, and 4 as amended by chapter 280 of the laws of 1994, is  
8 amended to read as follows:

9 § 4410-a. Responsibility for certain temporary-resident preschool  
10 children with ~~[handicapping conditions]~~ disabilities. 1. Definitions.  
11 For the purpose of this section, the following definitions shall apply:

12 a. ~~"[Foster care child]~~ Child in foster care" shall mean a child  
13 placed in foster care by a social services district.

14 b. ~~"[Homeless child]~~ Child who is homeless" shall mean a homeless  
15 child as defined in paragraph a of subdivision one of section thirty-two  
16 hundred nine of this chapter.

17 c. "Municipality" shall mean a county outside the city of New York or  
18 the city, in the case of a county in the city of New York.

19 d. "Municipality of current location" shall mean a municipality in  
20 which a child lives which is different from the municipality ~~[in which a  
21 child or such child's family lived at the time a social services  
22 district assumed responsibility for the placement of such child or family,  
23 or at the time such child was admitted for care and/or treatment in  
24 a facility licensed or operated by another state agency]~~ of origin.

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

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e. "Municipality of [~~residence~~] origin" shall mean:

(i) for a child in foster care, the municipality within the state of New York in which a child or such child's [~~family lived~~] parent or person in parental relation resided at the time [~~the local social services district assumed responsibility for the placement of such child or family, or at the time~~] of placement into foster care when the social services district assumed care and custody or custody and guardianship of such child;

(ii) for a child who is homeless, the municipality within the state of New York in which a child or such child's parent or person in parental relation resided when circumstances arose which caused such child to become homeless; and

(iii) for a child in residential care, the municipality within the state of New York in which a child or such child's parent or person in parental relation resided at the time such child was admitted for care and/or treatment in a facility licensed or operated by [~~another~~] a state agency, other than the office of children and family services.

f. "Preschool child with a disability" shall mean a child eligible for services pursuant to section forty-four hundred ten of this [~~chapter~~] article. A "preschool child with a handicapping condition" means a preschool child with a disability.

g. "School district of current location" for a child who is homeless or in residential care shall mean a school district in which a child lives which is different from the school district [~~in which a child or such child's family lived at the time a social services district assumed responsibility for the placement of such child or family, or at the time such child was admitted for care and/or treatment in a facility licensed or operated by another state agency~~] of origin. For a child in foster care such terms shall mean "school district residence" as defined in section thirty-two hundred forty-four of this chapter.

h. "Child in residential care" shall mean a child residing in a facility, hospital or institution licensed or operated by [~~another~~] a state agency, other than the office of children and family services, as defined by subdivision six of section 1.03 of the mental hygiene law or by paragraph (m) of subdivision one of section two of the public health law.

i. "School district of origin" shall mean:

(i) for a child in foster care, the school district within the state of New York in which the child in foster care was attending a public preschool on a tuition-free basis or was entitled to attend, or would have been entitled to attend had the child been the eligible age to attend, at the time of placement into foster care when the social services district assumed care and custody or custody and guardianship of such child;

(ii) for a child who is homeless, the school district within the state of New York in which a child who is homeless was attending a public preschool on a tuition-free basis or was entitled to attend, or would have been entitled to attend had the child been the eligible age to attend, when circumstances arose which caused such child to become homeless; and

(iii) for a child in residential care, the school district within the state of New York in which a child was attending a public preschool on a tuition-free basis or was entitled to attend, or would have been entitled to attend had the child been the eligible age to attend, at the time such child was admitted for care and/or treatment in a facility

1 licensed or operated by a state agency, other than the office of chil-  
2 dren and family services.

3 2. School district evaluation and placement responsibility. a. The  
4 school district of current location of a [~~foster care or homeless child~~  
5 ~~or~~] child in residential care shall be responsible for the evaluation  
6 and placement procedures prescribed for a preschool child suspected of  
7 having or who has a [~~handicapping condition~~] disability pursuant to  
8 section forty-four hundred ten of this [~~chapter~~] article.

9 b. The school district of origin or the school district of current  
10 location of a child in foster care designated pursuant to paragraph (a)  
11 of subdivision two of section thirty-two hundred forty-four of this  
12 chapter shall be responsible for the evaluation and placement procedures  
13 prescribed for a preschool child suspected of having or who has a disa-  
14 bility pursuant to section forty-four hundred ten of this article,  
15 subject to a best interest determination pursuant to paragraph (a) of  
16 subdivision two of section thirty-two hundred forty-four of this chap-  
17 ter.

18 c. The school district of origin or the school district of current  
19 location of a child who is homeless designated pursuant to subdivision  
20 two of section thirty-two hundred nine of this chapter shall be respon-  
21 sible for the evaluation and placement procedures prescribed for a  
22 preschool child suspected of having or who has a disability pursuant to  
23 section forty-four hundred ten of this article, subject to a best inter-  
24 est determination pursuant to subparagraph three of paragraph f of  
25 subdivision two of section thirty-two hundred nine of this chapter.

26 d. In issuing its written notice of determination of services, the  
27 board of education of [~~such~~] the school district with evaluation and  
28 placement responsibility as determined pursuant to paragraphs a, b, and  
29 c of this subdivision shall identify the municipality of [~~residence~~]  
30 origin and the municipality of current location, of a preschool child  
31 with a [~~handicapping condition~~] disability who is a child in foster care  
32 or [~~homeless~~] child who is homeless or child in residential care. Such  
33 notice of determination shall be transmitted to both the municipality of  
34 [~~residence~~] origin and the municipality of current location.

35 3. Contract and payment responsibility. The municipality of [~~current~~  
36 ~~location~~] the school district which is determined to be responsible for  
37 the evaluation and placement of such child, pursuant to subdivision two  
38 of this section, shall be the municipality of record for a preschool  
39 child with a [~~handicapping condition~~] disability who is a child in  
40 foster care or a child who is homeless [~~child~~] or a child in residential  
41 care for the purposes of section forty-four hundred ten of this [~~chap-~~  
42 ~~ter~~] article provided, however, that, notwithstanding the provision of  
43 paragraph b of subdivision eleven of such section, if the municipality  
44 of record is the municipality of current location, the state shall reim-  
45 burse one hundred percent of the approved costs paid by such munici-  
46 pality which shall be offset by the local contribution due pursuant to  
47 subdivision four of this section.

48 4. Local contribution. [~~The~~] If the municipality of record as  
49 described in subdivision three of this section is the municipality of  
50 current location, the municipality of [~~residence~~] origin shall be finan-  
51 cially responsible for the local contribution which shall equal that  
52 portion of the approved costs of services to a child in foster care or a  
53 child who is homeless [~~child~~] or child in residential care with a  
54 [~~handicapping condition~~] disability which would not be reimbursed pursu-  
55 ant to the schedule set out in paragraph b of subdivision eleven of  
56 section forty-four hundred ten of this [~~chapter~~] article. The commis-

1 sioner shall certify to the comptroller the amount of the local contrib-  
2 ution owed by each municipality to the state. The comptroller shall  
3 deduct the amount of such local contribution first from any moneys due  
4 the municipality pursuant to such section and then from any other moneys  
5 due or to become due such municipality.

6 § 2. This act shall take effect on the ninetieth day after it shall  
7 have become a law.