

STATE OF NEW YORK

7000--B

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 -- recommitted to the Committee on Disabilities in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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, the section heading, paragraph f of subdivision 1 and subdivisions
4 2, 3 and 4 as amended by chapter 371 of the laws of 2023, paragraph b of
5 subdivision 1 as amended by chapter 569 of the laws of 1994, paragraphs
6 d, e and g of subdivision 1 as amended by chapter 705 of the laws of
7 1992 and paragraph h of subdivision 1 as amended by chapter 280 of the
8 laws of 1994, is amended to read as follows:
9 § 4410-a. Responsibility for certain temporary-resident preschool
10 children with disabilities. 1. Definitions. For the purpose of this
11 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~~]

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

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~~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.~~

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.

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 term shall mean "school district of 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

1 time such child was admitted for care and/or treatment in a facility
2 licensed or operated by a state agency, other than the office of chil-
3 dren and family services.

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

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

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 disability who is a child in foster care or [~~homeless~~] child who
32 is homeless or child in residential care. Such notice of determination
33 shall be transmitted to both the municipality of [~~residence~~] origin and
34 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 disability who is a child in foster care or a child who is
40 homeless [~~child~~] or a child in residential care for the purposes of
41 section forty-four hundred ten of this [~~chapter~~] article provided,
42 however, that, notwithstanding the provision of paragraph b of subdivi-
43 sion eleven of such section, if the municipality of record is the muni-
44 cipality of current location, the state shall reimburse one hundred
45 percent of the approved costs paid by such municipality which shall be
46 offset by the local contribution due pursuant to subdivision four of
47 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 a child in residential care with a
54 disability which would not be reimbursed pursuant to the schedule set
55 out in paragraph b of subdivision eleven of section forty-four hundred
56 ten of this [~~chapter~~] article. The commissioner shall certify to the

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

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